

AFFIDAVIT

SUPREME COURT OF SOUTH AUSTRALIA
TESTAMENTARY CAUSES JURISDICTION

In the Estate of **[FULL NAME OF DECEASED]** (Deceased)

[I / We], [full name, address, postcode and occupation of deponent], [swear on oath / do truly and solemnly affirm] that:

[1 *Enter text in separate numbered paragraphs*]

[Sworn / Affirmed] by the abovenamed deponent[s] at [place and postcode] on [date].

.....
[signature of deponent(s)]

before me

.....
[signature of authorised witness]
[print name of witness]
[print title of authorised witness]
[ID number of witness]

Notes

- 1 There must be consistency between the wording in the commencement of the affidavit and the jurat. If the wording in the commencement of the affidavit is not consistent with the jurat (sworn / affirmed), then the affidavit may not be accepted.
- 2 The jurat should be placed at the end of the affidavit adjacent to the left-hand margin of the page but not on a page on which no part of the text appears. If there is more than one jurat a subsequent jurat or jurats may appear on a page on which no part of the text appears.
- 3 The name of the person before whom the affidavit is sworn / affirmed must be legibly printed or typed below their signature in the jurat.
- 4 The person taking the affidavit must disclose their authority for taking affidavits beneath their signature in the jurat, e.g. “A Commissioner for taking affidavits in the Supreme Court of South Australia” or “A Justice of the Peace in and for the State of South Australia” or as the case may be.
- 5 If the affidavit is taken out of South Australia by a person not being authorised to take affidavits in the Supreme Court of South Australia, then the person before whom the affidavit is sworn / affirmed must disclose their authority to administer oaths in the place where it is sworn / affirmed, e.g. “A Justice of the Peace in and for the State of Victoria and a person duly authorised to administer oaths in that State”.
- 6 Where an affidavit is on more than one page, it must be signed by the deponent on each page and the person taking the oath/affirmation must also sign on each page and add the date.
- 7 Where a testamentary document is referred to in an affidavit, e.g. “the document dated [date] being now produced to me and marked ‘A’ (as the case may be)” the document must be marked “A” on the backsheets beneath which a suitable exhibit endorsement must be made and which must be dated and signed by the person taking the affidavit, e.g.

Form PROB34

"A"

This is the document marked "A" referred to in the affidavit of [*name of deponent*]
[*sworn / affirmed*] before me on [*date*]

.....
A Commissioner, etc

If the testamentary document does not have a backsheet the marking, exhibit endorsement and signature shall be made in some convenient place on the document and the Registrar's direction may be sought, if necessary. The marking, endorsement and signature must not interfere with the writing on either side of the document.

Modifications of Form PROB34

(a) Where the deponent is blind, illiterate or physically incapable of reading

[*Sworn / Affirmed*] at [*suburb and postcode*] on [*date*])
by [*deponent name*], this affidavit having)
been previously read over to)
them (*where there are exhibits the*)
following words must be added) and)
the nature and effect of the exhibits)
having been explained to them) and) [Deponent's mark or signature]
[*deponent name*] appearing perfectly to)
understand the same and having made their)
mark (*or signed their name*) to it in)
my presence)

Before me:

.....

Note

The Commissioner (or as the case may be) must first read over the affidavit to the deponent, or cause it to be read over to the deponent in the Commissioner's presence, and be satisfied that the deponent understands it and the exhibits (if any) to which the affidavit refers, and the deponent must make their mark or (if able) sign their name to the affidavit in the Commissioner's presence.

(b) Where the deponent is physically capable of reading but incapable of signing:

[*Sworn / Affirmed*] at [*suburb and postcode*])
by [*deponent name*] on [*date*], [*deponent name*])
having made their mark to this affidavit in my presence,)
and being physically incapable of writing) [Deponent's mark]
their name)

Before me:

.....

(c) Where the deponent is physically capable of reading but incapable of making a mark or signing:

[*Sworn / Affirmed*] at [*suburb and postcode*] by)
[*deponent name*] on [*date*] without [*deponent name*])
making their mark or signing this affidavit,)
[*deponent name*] being physically incapable)
of so doing)

Before me:

.....

(d) Where the deponent does not understand English:

[Sworn / Affirmed] at [suburb and postcode] by)
[deponent name] on [date] through the interpretation of)
[interpreter name] of [address and)
occupation], [interpreter name] having first been sworn)
that they had truly, distinctly and audibly)
interpreted the contents of this affidavit [and)
explained the nature and effect of the exhibits]) [Deponent's signature]
to [deponent name] in the [language] language and)
that they would truly and faithfully interpret)
the oath to be administered to them)

Before me:

.....

Note

The interpreter must first take the following oath (or affirm to the same effect):

*"You do swear that you well understand the English and [language of the deponent])
languages, and that you have truly, distinctly, and audibly interpreted the contents of
this affidavit [and explained the nature and effect of the exhibits] to the deponent, and
that you will truly and faithfully interpret the oath about to be administered to them
So help you God."*

The Commissioner (or as the case may be) must then repeat the ordinary form of oath or affirmation, and the interpreter must interpret it to the deponent.