

**SOUTH AUSTRALIA  
IN THE SUPREME COURT  
TESTAMENTARY CAUSES JURISDICTION**

**In the Estate of A.B. deceased**

I [full name, address and occupation of deponent] SWEAR ON OATH/DO TRULY AND SOLEMNLY AFFIRM [delete whichever is inapplicable] THAT:

- 1 I am one of the subscribing witnesses to the [codicil to the] last will and testament (“the document”) of A.B. late of [address] deceased (“the deceased”) the document dated ..... 2000 being now produced to me and marked “A”.
- 2 The deceased executed the document on the above date [or on ..... 20...] by signing his [her] name [or by making his [her] mark] at the foot or end of the document [or as the case may be] as the same now appears on it in the presence of me and of E.F. the other subscribed witness to the document both of us being present at the same time and we then at the request of the deceased attested and subscribed the document in the deceased’s presence.

*If the deceased acknowledged his [her] signature to the attesting witnesses then for paragraph 2 above substitute:*

- 2 The deceased executed the document on the above date [or on ..... 20...] by acknowledging the signature “AB”, as the same now appears at the foot or end of the document [or as the case may be] to be his [her] signature in the presence of me and of E.F., the other subscribed witness to it, both of us being present at the same time, by producing the document to us and pointing to his [her] signature which was clearly visible and saying to us “Will you witness my signature to my will [or as the case may be] and we then in compliance with his [her] request attested and subscribed the document in the deceased’s presence.
- 3 Prior to the execution of the document by the deceased I read the document over to him [her] [or the document was read over to him [her] by E.F. in my presence] [or the deceased read over the document in my presence] [or as the case may be] and the

deceased at such time appeared thoroughly to understand the same and to have full knowledge of its contents.

Sworn/Affirmed [*delete whichever is inapplicable*]

by the abovenamed deponent

at [*place*]

on [*date*]

.....  
(*signature of deponent*)

before me

.....  
(*signature of attesting witness*)  
[*print name of witness*]  
[*print title of attesting witness*]  
[*ID number of witness*]

**Notes**

- 1 If the deceased died on or after 1<sup>st</sup> July 1994, it is not necessary for the formal validity of the will or codicil (irrespective of the date on which it was executed) for it to have been signed at “*the foot or end thereof*”. Section 8 of the *Wills Act 1936* (as substituted by section 5 of the *Wills (Miscellaneous) Amendment Act 1994*) makes no stipulation as to the position of the deceased’s signature. However, “*it must appear on the face of the will or otherwise, that the testator intended by the signature to give effect to the will*”. Additional affidavit evidence may therefore be required to show that the deceased intended to give effect by that signature to the document signed as his or her will or codicil.
- 2 Acknowledgment of a previously subscribed signature by an attesting witness is now permitted in respect of a will or codicil of a testator dying on or after 1<sup>st</sup> July 1994. In such circumstances paragraph 2 of the affidavit should be modified as the case may require.
- 3 If evidence is required to show whether an unauthenticated alteration was present at the time the will was executed, then the following paragraph may be added or substituted as the case may require:

Having observed the alteration made to the document by the interlineation of the words ..... between the ..... and the ..... lines of the ..... page of the document [*or as the case may be*] I am able to say that those words were written and made in the document

prior [*or* subsequent] to its execution [*or* that I am unable to say whether those words were written and made prior or subsequently to the execution of the document.]

- 4 If the deponent is unable to depose to the testator's knowledge of the contents of the will or codicil the affidavit should be modified to explain the circumstance in which the will or codicil was executed.
- 5 If the deponent was present when the will was executed but was not a subscribing witness, the following modification to Form 1 is to be used:

**Modification to Form 1**

*Affidavit of due execution where deponent was present when the will was executed but not a subscribing witness*

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TESTAMENTARY CAUSES JURISDICTION**

**In the Estate of A.B. deceased**

I [full name, address and occupation of deponent] SWEAR ON OATH/DO TRULY AND SOLEMNLY AFFIRM (*delete whichever is inapplicable*) THAT:

- 1 I was present at the time of the execution of the [codicil to the] last will and testament (“the document”) of A.B. late of [address] and deceased (“the deceased”) the document dated ..... 20... being now produced to me and marked “A”. The deceased executed the document on the above date [or on ..... 20...] by signing his [her] name [or by making his [her] mark] at the foot or end of the document [or on the first and second pages at the foot and on the last page at the end of the document *or as the case may be*] as the same now appears on the document in presence of me and of E.F. and G.H. the subscribed witnesses to the document (“the subscribed witnesses”) all of us being present at the same time and the subscribed witnesses then [*if such be the case* – at the request of the deceased] attested and subscribed the document in the deceased’s presence and in my presence.
  
- 2 Prior to the execution of the document by the deceased I read the document over to him [her] [or the document was read over to him [her] by E.F. in our presence] [or the deceased read over the document in our presence] [*or as the case may be*] and the deceased at such time appeared to thoroughly to understand the same and to have full knowledge of its contents.

Sworn/Affirmed [*delete whichever is inapplicable*]

by the abovenamed deponent

at [place]

on [date]

.....  
(signature of deponent)

before me

.....  
(signature of attesting witness)  
[print name of witness]  
[print title of attesting witness]  
[ID number of witness]