

**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 [We] believe the paper writing [or if more than one testamentary document, paper writings] now produced to and marked by me [us] to contain the last will and testament [and codicil or two codicils or as the case may be (see rule 11(3))] (“the will”) of A.B. [formerly of ..... (see rule 12(6)) but] late of [address] deceased (“the deceased”).
- 2 E.F. [relationship to the deceased (if applicable)] the executor as described in the will survived the deceased and is since dead without having proved the will [or the deceased did not in the will appoint an executor] [or as the case may be].
- 3 I am [We are] the [insert the relationship (if any) to the deceased as in rule 11(8)] and the residuary devisee[s] and legatee[s] named in the will [or as the case may be].
- 4 I [We] will:
  - (a) collect, get in and administer according to law the estate of the deceased;
  - (b) if required to do so by the Court, produce to the Court a full statement and account of my [our] administration of the estate;
  - (c) if required to do so by the Court, deliver up to the Court the grant of administration;
  - (d) deliver at the office of Public Trustee of the State of South Australia within six calendar months from the date of administration being granted to me [us] a statement and account verified by my [our] declaration of all the estate of the deceased and of my [our] administration of the estate.
- 5 The deceased died at ..... on ..... 20... aged ..... years.

6 The deceased died possessed of assets in the State of South Australia [*where the deceased died before 1 July 1987, add: as disclosed in the annexed inventory and annex Form 54*].

Sworn/Affirmed [*delete whichever is inapplicable*]

by the abovenamed deponent

at [*place*]

on [*date*]

.....

(*signature of deponent*)

before me

.....

(*signature and title of attesting witness*)

[*print name of witness*]

[*print title of attesting witness*]

[*ID number of witness*]

## Notes

- 1 Where the testator died on or after 5 August 1996 and the applicant's title to the grant is dependent upon the revocation pursuant to section 20A of the *Wills Act 1936* of the executorship and/or beneficial interest of the testator's former spouse or upon the operation of the section being excluded, then refer to the modifications of the form of oath below.
- 2 The oath must clear off other persons having a prior entitlement to the grant – see rule 33.

## Modifications to Form 42

- (a) *Oath of administrator where the applicant's title to the grant as one of the residuary devisees and legatees substituted in the will is dependent upon the application of section 20A(1) of the Wills Act 1936 (e.g. the testator's former spouse having been named the sole executor and instituted residuary devisee and legatee under the will)*

[*Heading*]

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

- 1 I believe the paper writing (*complete as in Form 42*)
- 2 The appointment of E.F. the former spouse of the deceased as the executor as described in the will and the sole instituted residuary devisee and legatee named in the will has been revoked pursuant to section 20A(1) of the *Wills Act 1936* the marriage between the testator and E.F. having been dissolved by order of the Family Court of Australia [*or the Federal Magistrates Court or the Federal Circuit Court or as the case may be*] made on ..... 20... . A true copy of the order is annexed and marked “B”.
- 3 I am one of the residuary devisees and legatees substituted in the will.
- 4 I will: [*complete as in Form 42*].

**(b) *Oath of administrator where the marriage of the testator has been terminated and the former spouse has been named residuary devisee and legatee and the applicant’s title to the grant is dependent upon his or her beneficial entitlement not having been revoked pursuant to section 20A(1) of the Wills Act 1936.***

[*Heading*]

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

- 1 I believe the paper writing [*complete as in Form 42*].
- 2 E.F. [*relationship to the deceased (if applicable)*] the executor as described in the will died in the lifetime of the deceased [*or as the case may be*].
- 3 I am the former spouse of the deceased and the residuary devisee and legatee named in the will.
- 4 The marriage between the deceased and myself was dissolved by order of the Family Court of Australia [*or the Federal Magistrates Court or the Federal Circuit Court or as the case may be*] made on ..... 20... . A true copy of the order is annexed and marked “B”. The deceased by codicil dated ..... 20... affirmed the will showing no intention of revoking my beneficial entitlement under the will.\*
- 5 I will: [*complete as in Form 42*].

**\*N.B.** *The oath must disclose such facts as are necessary to exclude the operation of the section.*

**(c) *Oath of administrator where the grant is taken by the legal personal representative of a deceased person entitled to the whole of the estate***

*(Heading)*

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

- 1 I believe the paper writing [complete as in Form 42].
- 2 E.F. [relationship to the deceased (if applicable)] the executor as described in the will and the residuary devisee and legatee therein named survived the deceased by 28 days [or as the case may be] but died on ..... 20.. without having proved the will.
- 3 Probate of the will of E.F. deceased was granted by the Court to me the executor as described in the will on ..... 20..
- 4 I will: [complete as in Form 42].