

SUPREME COURT OF SOUTH AUSTRALIA

SUPPLEMENTARY PROBATE RULES 2015

The Probate Supplementary Rules 2015, dated 9th June 2015, come into operation on 1st July 2015 (*Government Gazette* 25 June 2015, p. 3168).

By virtue and in pursuance of section 122 of the *Administration and Probate Act 1919*, section 72 of the *Supreme Court Act 1935* and all other enabling powers, we, Judges of the Supreme Court of South Australia, make the following Probate Supplementary Rules 2015.

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Chapter 1—Preliminary

1—Citation

These Rules may be cited as the *Probate Supplementary Rules 2015*.

2—Commencement

These Supplementary Rules commence on 1 July 2015.

Chapter 2—Documents

3—Approved forms

The forms in the Schedule to these Supplementary Rules are approved forms.

**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 1st 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 1st 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

**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 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]

**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 the sole executor [or one of the executors *or as the case may be*] named in the last will and testament (“the document”) of A.B. late of [address] deceased, the document bearing date 20..., being now produced to me and marked “A”, and having viewed and perused the document and particularly observed [*here recite the various obliterations, interlineations, erasures, and alterations (if any) or describe the plight and condition of the document or any other matters required to be accounted for [e.g. pin holes, perforations, etc], and describe the finding of the document in its present state, and, if possible, trace the document from the possession of the deceased up to the time of making the affidavit*].
- 2 The document is now in all respects in the same state, plight and condition as when found by me [*or as the case may be*] save and except as aforesaid.

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]

Note

If the present state of the document cannot be accounted for, evidence of thorough (unsuccessful) search for other testamentary papers must be provided.

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

In the Estate of John Smith otherwise Cyril John Smith deceased

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

- 1 John Smith otherwise Cyril John Smith late of [address] deceased (“the deceased”) died at on 20... having made and duly executed his last will and testament dated 20... (“the will”) of which he appointed me the sole executor [or one of the executors or as the case may be].
- 2 The deceased is described in the will as John Smith and has subscribed his name to the will in execution of it as John Smith.
- 3 [Here establish the identity of the deceased under the different name e.g.: The birth of the deceased was registered in the name of Cyril John Smith as appears by the certified copy of the Certificate of Birth annexed hereto and marked “A” (or as the case may be).]
- 4 [Here set out the ground justifying the issue of the grant in the different name eg: The deceased is registered in the name of Cyril John Smith as the proprietor of an estate in fee simple in the whole of the land comprised in Certificate of Title Register Book Volume Folio A photocopy of the said Certificate of Title is annexed hereto and marked “B” (see the Note to this Form)].

or

At the time of death of the deceased the amount of \$..... was standing to his credit in Account No. at X Savings Bank in the name of Cyril John Smith, as appears by a letter signed by the Manager of the bank annexed hereto and marked “C” (or as the case may be).]

5 In the aforesaid circumstances it is desired that the grant of probate of the will of the said testator (*or as the case may be*) should issue in the names of John Smith otherwise Cyril John Smith deceased.

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*]

Note

Where an asset justifying the issue of the grant in a different name is land registered under the *Real Property Act 1886* the deponent must depose in paragraph 4 to having made an enquiry of the Lands Titles Registration Office and being advised by that Office that that Office requires the grant in the different name.

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

In the Estate of Miriam Sarah Smith otherwise Sarah Smith 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 the intended administrator of the estate of Miriam Sarah Smith otherwise Sarah Smith late of [address] deceased (“the deceased”) who died at on 20... intestate.
- 2 [Here establish the identity of the deceased under the alternative names e.g.: The deceased’s correct name is Miriam Sarah Smith but that she usually referred to herself as Sarah Smith and was generally known by that name.]
- 3 [Here set out details of property justifying the issue of the grant in the alternative names e.g.: The deceased effected a policy of assurance on her own life in the name of Sarah Smith in the X Insurance Company Ltd. A letter signed by the Manager of the Company verifying the name in which the policy is held is annexed hereto and marked “A”.

and

- 4 The deceased is registered in the name of Miriam Sarah Smith as the proprietor of an estate in fee simple in the whole of the land comprised in Certificate of Title Register Book Volume Folio A photocopy of the Certificate of Title is annexed hereto and marked “B” [or as the case may be – in the case of real estate see Note 2 to this Form].]
- 5 In order to deal with the above property it is desired that the grant should issue in the names of Miriam Sarah Smith otherwise Sarah Smith deceased.

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 In the case of an intestacy there must be assets in at least two different names to warrant an alias grant.
- 2 Where an asset justifying the issue of the grant in a different name is land registered under the *Real Property Act 1886* the deponent must depose in paragraph 4 to having made an enquiry of the Lands Titles Registration Office and being advised by that Office that that Office requires the grant in the different name.

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

In the Estate of A.B. deceased

I, E.F. (formerly called C.D.) of [address] make oath and say that

1 A.B. late of [address] deceased (“the deceased”) died at on 20... having made and duly executed his [her] last will dated 20... (“the will”) wherein he [she] named me an executor.

2 At the date of the will my name was C.D.

3 On20... I married G.H. [*or divorced G.H.*] and thereafter have assumed [*or reverted to*] the name E.F.

or

3 I have since formally changed my name to E.F. [*or I have since changed my name and am known by custom and repute as E.F.*]

4 I am the same person referred to in the will as C.D.

Sworn atby E.F.)

On20... E.F.

Before me

.....

**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 A.B. late of [address] deceased (“the deceased”) died at on 20... having made and duly executed his [her] last will dated 20... (“the will”) wherein he [she] named me an executor.
- 2 At the date of the will my name was E.F.
- 3 The deceased referred to me as C.D.
- 4 [If applicable] I am a niece [or other relation specified in the will]. The deceased had no niece called C.D.
- 5 I am the same person referred to in the will as C.D.

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]

**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 A.B. late of [address] deceased (“the deceased”) died at on 20... having made and duly executed his [her] last will dated 20... (“the will”) pursuant to an order of the Honourable Justice made on 20... and retained by the Registrar of Probates pursuant to section 6 [or 7 as the case may be] of the *Wills Act 1936*.
- 2 I am the executor as described in the will.
- 3 The deceased died possessed of assets in the State of South Australia.
- 4 I intend to make an application to this Court for a grant of probate in respect of the estate of the deceased and request that the will be delivered out to my solicitors E.F. & Partners of in the said State.

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]

**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 A.B. late of [address] deceased (“the deceased”) died at on 20... having made and duly executed his [her] last will dated 20... (“the will”) wherein he [she] named C.D. sole executor [and the residuary devisee and legatee in trust *or as the case may be*].
- 2 C.D. by renunciation filed in this Court on 20... renounced probate [and letters of administration (with the will annexed) of the estate of the deceased].
- 3 I am the widow of the deceased [*or as the case may be*] and the residuary devisee and legatee [*or as the case may be*] named in the will.
- 4 The deceased died possessed of property in the State of South Australia.
- 5 I intend to make an application to this Court for a grant of letters of administration with the will annexed of the estate of the deceased and I therefore request that the will which has been deposited in this Court be delivered out to me [*or to my solicitor XY of*].

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]

**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 well acquainted with the [Italian or as the case may be] and English languages, and have had experience in the translation of documents from [Italian] into English. [Provide details of any further qualifications]
- 2 The paper writing now produced to me and marked "A" and exhibited hereto is a true and faithful translation of the last will and testament of A.B. deceased which will bears date 20... and is written in the [Italian] language and is now produced to me and marked "B" and is exhibited hereto. [Wording to be suitably modified if document is other than a will].

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]

**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 On 20... I duly served E.F. of with a sealed copy of the warning, a true copy of which marked “A” is annexed hereto, by delivering to and leaving the same at[or by sending the same by registered mail addressed to him [her] at a copy of the Registered Post Lodgement Document marked “B” being annexed hereto]

or

On the 20... I duly served GH & Co. of Solicitors with a sealed copy of the warning, a true copy of which marked “A” is annexed hereto, by delivering to and leaving the same with a clerk of the said GH & Co. solicitors at their office aforesaid [or leaving the same at their office aforesaid at the hour of in thenoon] or by sending the same by registered mail to their office aforesaid. A copy of the Registered Post Lodgement Document marked “B” being annexed hereto]

2 On 20... I searched the records in the Probate Registry of this Court for entering of appearances from 20... [day of service] to the present day inclusive, to ascertain whether or not any appearance to the warning had been entered, and I say that no appearance to the warning has been entered either by or on behalf of any person or persons whomsoever.

3 No summons for directions under rule 52(9) of the *Probate Rules 2015* has been received by my firm.

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*]

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 On 20... I duly served E.F. of with a sealed copy of the citation, a true copy of which marked "A" is annexed hereto, by giving it to him personally at[or by sending the same by registered mail addressed to him [her] at a copy of the Registered Post Lodgement Document marked "B" being annexed hereto]
2 On 20... I searched the records in the Probate Registry of this Court for entering of appearances from 20... [day of service] to the present day inclusive, to ascertain whether or not any appearance to the citation had been entered, and I say that no appearance to the citation has been entered either by or on behalf of any person or persons whomsoever.

Sworn/Affirmed [delete whichever is inapplicable]

by the abovenamed deponent

at pplace]

on [date]

.....

(signature of deponent)

before me

.....

(signature of attesting witness)

[print name of witness]

[print title of attesting witness]

[ID number of witness]

**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 On 20... I duly served E.F. of with a sealed copy of the subpoena, a true copy of which marked "A" is annexed hereto, by giving it to him personally at

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]

**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 A.B. late of [address] deceased (“the deceased”) died at 20... having made and duly executed his [her] last will bearing date 20... (“the will”) now remaining in the Probate Registry of this Court.
- 2 E.F. of [address] is the sole executor [or the surviving executor] [or as the case may be] named in the will [G.H. the other executor having died during the lifetime of the deceased or as the case may be].
- 3 E.F. has not yet taken probate of the will.
- 4 I am the residuary devisee and legatee [or one of the residuary devisees and legatees] named in the will [or as the case may be].
- 5 I wish to obtain letters of administration with the will annexed of the estate of the deceased.
- 6 The deceased left real and personal estate [or real estate only] [or personal estate only] in the State of South Australia.

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]

[Form of citation, No. 24]

**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 A.B. late of [address] deceased (“the deceased”) died at on 20... intestate leaving E.F. of [address] her [or his] widower and one of the persons entitled to share in her estate.
- 2 There is no person adjudged under the *Family Relationships Act 1975* to have been a domestic partner of the deceased as at the date of her [or his] death.
- 3 The said E.F. has not yet taken upon himself [or herself] letters of administration of the estate of the deceased.
- 4 I am the son [or daughter] and one of the persons entitled to share in the estate of the deceased.
- 5 I wish to obtain letters of administration of the estate of the deceased.
- 6 The deceased left real and personal estate [or real estate only] [or personal estate only] in the State of South Australia.

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]

[Form of citation, No. 25]

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 A.B. late of [address] deceased ("the deceased") died at on 20... having made and duly executed his [her] last will bearing date 20... ("the will") and therein named E.F. of [address] and G.H. [address] his [her] executors.
2 On 20... probate of the will was granted by the Court to the said E.F. one of the executors named in the will, leave being reserved for G.H. the other executor to apply for probate.
3 E.F. died on 20... leaving part of the estate unadministered.
4 G.H. has not yet taken probate of the will.
5 I am the sole executor of the will of the said E.F. probate whereof was granted to me by the Court on 20... and I wish to act as executor by transmission of executorship of the will of the said A.B. deceased.
6 To the best of my knowledge information and belief the gross value of the estate of A.B. deceased left unadministered is \$.....

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]

[Form of citation, No. 26]

**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 A.B. late of [address] deceased (“the deceased”) died at on 20... having made and duly executed his [her] last will bearing date 20... (“the will”) which now remains in the Probate Registry of this Court and in the will named E.F. of [address] sole executor and myself one of the residuary devisees and legatees [or as the case may be].
- 2 More than four months have elapsed since the date of the death of the deceased and no proceedings as to the validity of the will are now pending.
- 3 E.F. has neglected to prove the will.
- 4 E.F. has intermeddled in the estate of the deceased by collecting the rents owing to the deceased [or as the case may be – instances must be set out].
- 5 I am desirous of compelling E.F. to take probate of the will.

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]

[Form of citation, No. 27]

**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 A.B. late of [address] deceased (“the deceased”) died at on 20... a widow leaving me this deponent [her son] and the only person entitled to her [his] estate in case she [he] died intestate (there being no other person entitled in priority to share in her [his] estate by virtue of any enactment) [or having made and duly executed her [his] last will and testament bearing date 20... wherein she [he] named me the sole executor].
- 2 The deceased left a document dated 20... purporting to be a will (“the document”) wherein she [he] appointed E.F. of [address] sole executor and residuary devisee and legatee and which document now remains in the Probate Registry of this Court.
- 3 I am desirous of issuing a citation against E.F. to propound the document should he [she] think it in his [her] interest so to do and that in default letters of administration of the estate of the deceased as having died intestate be granted to me [or that in default probate of the said last will and testament of the deceased bearing date 20... be granted to me].
- 4 The deceased left real and personal estate [or real estate only] [or personal estate only] in the State of South Australia.

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]

[Form of citation, No. 28]

**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 Probate of the alleged last will and testament dated 20... of A.B. late of [address] deceased (“the deceased”) who died at on 20... was 20.... granted to E.F. of [address] the sole executor [or the surviving executor] [or as the case may be] named in the will [G.H. the other executor having died during the lifetime of the deceased or as the case may be].

2 The deceased made and duly executed his [her] last will and testament bearing date 20... of which he [she] appointed me sole executor.

3 The grant of probate ought to be called in and revoked.

or

2 The deceased died intestate a single person without issue [or as the case may be].

3 There is no person adjudged under the *Family Relationships Act 1975* to have been a domestic partner of the deceased at the date of his [her] death.

4 I am the father and one of the persons entitled to share in the estate [or as the case may be].

5 The grant of probate ought to be called in and revoked.

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]

[Form of citation, Nos. 29 to 32]

**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 There is now depending in the Supreme Court of South Australia a probate action entitled “South Australia In the Supreme Court No. of 20... In the estate of A.B. deceased Between C.D. plaintiff and E.F. defendant” wherein I as plaintiff am proceeding to prove in solemn form of law the last will and testament dated 20... of A.B. late of [address] deceased (“the deceased”) who died at on 20... [and also for revocation of the probate of the alleged will of the deceased bearing date 20... which said probate was granted by the aforesaid Court to the defendant E.F. on 20... and to have the said alleged will pronounced against].
- 2 G.F. of [address] is the ... of the deceased and one of the persons entitled to share in his [her] estate in the event of an intestacy [or is one of the residuary devisees and legatees under the alleged will of the deceased dated 20... [or as the case may be]] and his [her] interests are adversely affected by the will which is propounded by me.

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]

[Form of citation, No. 33]

**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 A.B. of [address] deceased died at on 20... having duly made his [her] last will and testament bearing date 20... (“the document”) of which he [she] appointed E.F. sole executor and myself residuary legatee [or as the case may be] (a photocopy of the document being now produced to me and marked “A”).
- 2 The document is now in the possession custody or power of the said E.F. who has neglected or declined to prove the document or renounce probate of it and I request that the document be brought into the Probate Registry of this Court in order that I may prove the same or otherwise act as I may be advised.
- 3 The said E.F. resides at

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]

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

In the Estate of A.B. deceased

I *[full name, address and occupation of deponent]* DO TRULY AND SOLEMNLY
AFFIRM THAT:

Affirmed

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]

Note

The commencement of the affidavit and the jurat must be consistent. If the commencement indicates that the deponent would swear but the jurat indicates that the affidavit was affirmed (or vice versa) the affidavit will not be accepted.

The usual form of jurat to an affidavit is as follows:

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 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.
- 2 The name of the person before whom the affidavit is sworn must be legibly printed or typed below his [her] signature in the jurat.
- 3 The person taking the affidavit must disclose his or her authority for taking affidavits beneath his [her] 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.
- 4 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 must disclose his or her authority to administer oaths in the place where it is sworn, 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*”.

- 5 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 must also sign on each page and add the date in figures (see rule 30(2)).
- 6 Where a testamentary document is referred to in an affidavit, e.g. “*the document dated 20... being now produced to me and marked ‘A’ (as the case may be)*” the document must be marked “A” on the back of it beneath which a suitable exhibit endorsement must be made and which must be dated and signed by the person taking the affidavit, e.g.

“A”

This is the document marked “A” referred to in the affidavit of C.D.
sworn before me on 20...

.....

A Commissioner, etc

If the testamentary document does not have a back 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 22

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

Sworn at)	
on 20...)	
by C.D., this affidavit having)	
been previously read over to)	
him [her] (<i>where there are exhibits the</i>)	
<i>following words must be added</i> and)	
the nature and effect of the exhibits)	
having been explained to him [her]) and)	C.D.
he [she] appearing perfectly to understand)	
the same and having made his [her])	
mark (<i>or</i> signed his [her] 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 his or her mark or (if able) sign his or her name to the affidavit in the Commissioner's presence.

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

Sworn at)
by C.D. on 20... C.D. having made)
his [her] mark to this affidavit in my presence, he)
[she] being physically incapable of writing) X
his [her] name)
Before me:
.....

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

Sworn at)
by C.D. on 20...)
without C.D. making his [her] mark or)
signing this affidavit, he [she] being physically)
incapable of so doing)

Before me:
.....

(d) Where the deponent does not understand English:

Sworn at by C.D. on)
..... 20... through)
the interpretation of X.Y. of [address and)
occupation] X.Y. having first been sworn)
that he [she] had truly, distinctly and audibly)
interpreted the contents of this affidavit [and)
explained the nature and effect of the exhibits]) C.D.
to C.D. in the language and that)
he [she] would truly and faithfully interpret)
the oath to be administered to him [her])

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 him [her]

So help you God.”

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

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

In the Estate of A.B. deceased

To: E.F. of [address]

It appearing by an affidavit of C.D. of [address] sworn on 20... and filed in the Probate Registry of the Court that a certain document being or purporting to be testamentary, namely, [here describe the document e.g. the last will and testament bearing date 20...] of A.B. of [address] deceased is now in your possession, custody or power:

The Court orders that within 14 days after service of this subpoena on you, inclusive of the day of such service, you do bring into and leave with the Registrar of Probates in the Probate Registry of this Court which is situated at 1 Gouger Street Adelaide the said document now in the possession, custody or power of you the said E.F.

If you deny that the testamentary document is in your possession, custody or power you may file an affidavit to that effect – see rule 61(1) of the *Probate Rules 2015*.

Witness, the Honourable Chief Justice of the aforesaid Court at Adelaide, 20... .

Registrar of Probates

IMPORTANT NOTICE

If you neglect to obey this order by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey it.

Subpoena issued by of

Solicitors for the said C.D.

Note

For affidavit of service of subpoena see Form 12.

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

In the Estate of A.B. deceased

To: E.F. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn on 20... that:

- 1 A.B. late of [address] deceased (“the deceased”) died at on 20...
- 2 The deceased made and duly executed his [her] last will dated 20... which now remains in the Probate Registry of this Court.
- 3 You are the sole executor [or the surviving executor] [or as the case may be] named in the will [G.H. the other executor having died during the lifetime of the deceased or as the case may be].
- 4 He [She] is the residuary devisee and legatee [or one of the residuary devisees and legatees] named in the will [or as the case may be].

You are cited to accept or refuse probate of the will. If you wish to comply with this citation, you must within 14 days after service on you of this citation, enter an appearance in the Probate Registry of this Court at 1 Gouger Street Adelaide either:

- 1 stating that you intend to apply to this Court for a grant of probate of the will;
- or
- 2 showing cause why letters of administration with the will annexed of the estate of the deceased should not be granted to C.D.

If you do not comply with this citation, your right in respect of the executorship shall wholly cease and the representation of the deceased and the administration of the estate

will devolve as if you had not been appointed executor and the Court will proceed to grant letters of administration with the will annexed of the estate of the deceased to C.D.

Dated at Adelaide 20...

Registrar of Probates

Extracted by of

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No 13]

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

In the Estate of A.B. deceased

To: E.F. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn on 20... that:

- 1 A.B. late of [address] deceased (“the deceased”) died at on 20... intestate leaving you E.F. her [his] widower and one of the persons entitled to share in her [his] estate.
- 2 He [she] is the son [daughter] and one of the persons entitled to share in the estate of the deceased.

You are cited to accept or refuse letters of administration of the estate of the deceased. If you wish to comply with this citation, you must within 14 days after service on you of this citation, enter an appearance in the Probate Registry of this Court at 1 Gouger Street Adelaide either:

- 1 stating that you intend to apply to this Court for a grant to you of letters of administration of the estate of the deceased; or
- 2 showing cause why letters of administration of the estate should not be granted to C.D.

If you do not comply with this citation, the Court may grant letters of administration of the estate of the deceased to C.D. in your absence without further notice to you.

Dated at Adelaide 20...

Registrar of Probates

Extracted by of

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No .14]

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

In the Estate of A.B. deceased

To: G.H. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn 20... that:

- 1 Probate of the will of A.B. late of [address] deceased was on 20... granted by the Court to E.F. one of the executors named in the will leave being reserved for you G.H. the other executor to apply for probate.
- 2 E.F. for some time administered the estate of the deceased and died on 20... leaving part of the estate unadministered.
- 3 On 20... probate of the will of E.F. deceased was granted by this Court to C.D. the sole executor thereof.

You are cited to accept or refuse probate of the will of A.B. deceased. If you wish to comply with this citation you must:

- 1 within 14 days after service on you of this citation enter an appearance in the Probate Registry of this Court at 1 Gouger Street Adelaide stating that you intend to apply to this Court for a grant to you of probate of the will; and
- 2 with reasonable promptness make application to this Court for a grant to you of probate of the will and prosecute such application with reasonable diligence.

If you do not comply with this citation, your rights in respect of the executorship shall wholly cease and the representation to A.B. deceased and the administration of the estate will devolve as if you had not been appointed executor.

Dated at Adelaide 20...

Registrar of Probates

Extracted by of

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No .15]

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

In the Estate of A.B. deceased

To: E.F. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn 20....
that:

- 1 A.B. late of [address] deceased (“the deceased”) died at on
20...
- 2 The deceased made and duly executed his [her] last will and testament dated
..... 20... which now remains in the Probate Registry of this Court.
- 3 You are the sole executor named in the will and have intermeddled in the estate of
the deceased.
- 4 He [she] is one of the residuary devisees and legatees named in the will.

You are cited to take probate of the will. If you wish to comply with this citation, you
must within 14 days after service on you of this citation, enter an appearance in the
Probate Registry of this Court at 1 Gouger Street Adelaide either:

- (1) stating that you intend to apply to this Court for a grant of probate of the will;
- or
- (2) showing cause why you should not be ordered to take probate of the will under
pain of the law and contempt thereof.

Dated at Adelaide 20...

Registrar of Probates

IMPORTANT NOTICE

If you neglect to obey this order by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey it.

Extracted by

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No .16]

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

In the Estate of A.B. deceased

To: E.F. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn 20... that:

- 1 A.B. late of [address] deceased (“the deceased”) died at on the day of 20... leaving C.D. her son and the only person entitled to her estate in the event that she died intestate [or having made and duly executed her last will and testament dated *6 June 2010* wherein she named C.D. the sole executor].
- 2 The deceased left a paper writing dated [*1 April 1995*] (now remaining in the Probate Registry of this Court) purporting to be a will whereby he appointed you E.F. sole executor and residuary devisee and legatee.

You are cited to propound the paper writing dated [*1 April 1995*] if you think it in your interest to do so. If you wish to comply with this citation, you must within 14 days after service on you of this citation, enter an appearance in the Probate Registry of this Court at 1 Gouger Street Adelaide either:

- 1 stating that you intend to propound the paper writing dated [*1 April 1995*];
- or
- 2 showing cause why letters of administration of the estate of the deceased [or probate of the will dated *6 June 2010*] should not be granted to C.D.

If you do not comply with this citation, the Court may grant letters of administration of the estate of the deceased [*or probate of the will dated 6 June 2010*] to C.D. in your absence without further notice to you.

Dated at Adelaide 20...

Registrar of Probates

Extracted by

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No .17]

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

In the Estate of A.B. deceased

To: E.F. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn on 20... that:

- 1 Probate of the alleged last will and testament dated 20... of A.B. late of [address] deceased (“the deceased”) who died at on 20... was on 20... granted to you by the Court.
- 2 The deceased made and duly executed his [her] will and testament dated 20... (now remaining in the Probate Registry of this Court) and appointed him [her] sole executor.
- 3 The probate of the alleged will granted to you ought to be called in revoked and declared null and void in law.

You are commanded within 14 days after service on you of this citation to bring into and leave in the Probate Registry of this Court at 1 Gouger Street Adelaide the probate granted to you in order that C.D. may proceed in due course of law for the revocation of the same.

Dated at Adelaide 20...

Registrar of Probates

IMPORTANT NOTICE

If you neglect to obey this order by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey it.

Extracted by

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No .18]

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

In the Estate of A.B. deceased

To: E.F. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn on 20... that:

- 1 Probate of the alleged last will and testament dated the day of 20... of A.B. late of [address] deceased (“the deceased”) who died at on 20... was on 20... granted to you by the Court.
- 2 The deceased died intestate a single person without issue.
- 3 There is no person adjudged under the *Family Relationships Act 1975* to have been a domestic partner of the deceased at the date of his [her] death.
- 4 He [She] is the father [mother] of the deceased and the only person entitled to the estate [*or as the case may be*].
- 5 The probate of the alleged will granted to you ought to be called in revoked and declared null and void in law.

You are commanded within 14 days after service on you of this citation to bring into and leave in the Probate Registry of this Court at 1 Gouger Street Adelaide the probate granted to you in order that C.D. may proceed in due course of law for the revocation of the same.

Dated at Adelaide 20...

Registrar of Probates

IMPORTANT NOTICE

If you neglect to obey this order by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey it.

Extracted by

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No .18]

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

In the Estate of A.B. deceased

To: E.F. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn 20... that:

- 1 Letters of administration of the estate of A.B. late of [address] deceased (“the deceased”) who died at on 20... were on 20... granted to you by the Court.
- 2 The deceased made and duly executed his [her] last will and testament dated 20... (now remaining in the Probate Registry of this Court) in which he [she] appointed C.D. sole executor.
- 3 That the letters of administration granted to you ought to be called in revoked and declared null and void in law.

You are commanded within 14 days after service on you of this citation to bring into and leave in the Probate Registry of this Court at 1 Gouger Street Adelaide the letters of administration granted to you in order that C.D. may proceed in due course of law for the revocation of the same.

Dated at Adelaide 20...

Registrar of Probates

IMPORTANT NOTICE

If you neglect to obey this order by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey it.

Extracted by

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No .18 to be adapted]

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

In the Estate of A.B. deceased

To: E.F. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn on 20... that:

- 1 Letters of administration of the estate of A.B. late of [address] deceased (“the deceased”) who died at on 20... were on 20... granted to you by the Court as the father [mother] and one of the persons entitled to share in the estate of the deceased.
- 2 You are not one of the persons entitled to share in the estate.
- 3 The deceased died intestate a widower [widow].
- 4 There is no person adjudged under the *Family Relationships Act 1975* to have been a domestic partner of the deceased at the date of his [her] death.
- 5 He [She] is the son [daughter] and only person entitled to the estate of the deceased.
- 6 The letters of administration granted to you ought to be called in, revoked and declared null and void in law.

You are commanded within 14 days after service on you of this citation to bring into and leave in the Probate Registry of this Court at 1 Gouger Street Adelaide the letters of administration granted to you in order that C.D. may proceed in due course of law for the revocation of the same.

Dated at Adelaide 20...

Registrar of Probates

IMPORTANT NOTICE

If you neglect to obey this order by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey it.

Extracted by

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No .18 to be modified]

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

In the Estate of A.B. deceased

To: G.H. of [address]

Take notice that C.D. of [address] has stated in an affidavit sworn on 20... that:

- 1 He [She] is the plaintiff in a probate action commenced in the Court entitled “South Australia In the Supreme Court No ... of 20.. In the Estate of A.B. deceased Between C.D. plaintiff and E.F. defendant”.
- 2 He [She] is proceeding in the said action to prove in solemn form of law the last will and testament dated 20... of A.B. late of [address] deceased (“the deceased”) who died on 20... [and also for revocation of the probate of an alleged will of the deceased dated 20... which was granted by the said Court to E.F. on 20... and to have the alleged will pronounced against].
- 3 You have an interest adverse to the plaintiff in the proceedings in that you are the of the deceased and one of the persons entitled to share in the estate of the deceased in the event of an intestacy [*or* are one of the residuary devisees and legatees under the alleged will of the deceased dated 20...].

You may answer this citation, if you think it is in your interest to do so, by entering an appearance in the abovementioned action, either personally or by your solicitor, at any time before the proceedings are heard and determined. In default of your so doing, the Court may hear and determine the proceedings in your absence and without further notice to you with such consequences as may ensue according to law.

Dated at Adelaide 20...

Registrar of Probates

Extracted by

Solicitor for C.D. whose address for service is

[Form of affidavit to lead citation No .19]

**SOUTH AUSTRALIA
IN THE SUPREME COURT
TESTAMENTARY CAUSES JURISDICTION
No ... of 20 ...**

In the Estate of A.B. deceased

The plaintiff, [*name*] applies for the relief set out in this summons.

Hearing

The Court will hear the application for relief, or make orders for the conduct of the proceeding, at the time and place stated below.

The application will be heard before..... in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

Endorsements

Summons issued pursuant to section [*number*] of the [*Act*/(*rule number*)] of the *Probate Rules 2015* [*delete whichever is inapplicable*].

This Summons has the following endorsements under section [*number*] of the [*Act*/*rule number*] of the *Probate Rules 2015* [*delete whichever is inapplicable*]:

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks the following orders:

[*state briefly but specifically the orders sought*]

Accompanying documents

This summons must be accompanied by an affidavit stating the material facts on which the claim for relief is based.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is [*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*].

Date:

Signed by [*name*]

Plaintiff/Plaintiff's solicitor [*delete whichever is inapplicable*]

Notes

1. Where a practitioner is acting as agent for a principal practitioner, the name, address and telephone number of that principal practitioner and the L Code and P Code issued by the Law Society of South Australia to such practitioner must be endorsed on the backsheet to the summons - see rule 29(2)(c).
2. Two copies of any summons should be lodged in the Registry. Both copies should be signed, but neither dated. The date will be inserted in the Registry. Duplicates of supporting affidavits are not required.

**SOUTH AUSTRALIA
IN THE SUPREME COURT
TESTAMENTARY CAUSES JURISDICTION
No ... of 20 ...**

In the Estate of A.B. deceased

BETWEEN:

**C.D.
Plaintiff**

and

**E.F.
Defendant**

TO THE DEFENDANT: [*name*] of [*address*]

The plaintiff, [*name*] makes a claim against you or which may affect you. Details of the claim and relief sought are contained in the accompanying Affidavit.

Action required

If you wish to defend the claim, you must:

- (a) file an Appearance within 14 calendar days after service of this Summons on you; and
- (b) file an answering Affidavit within 28 calendar days after service of the Affidavit relied on by the plaintiff on you.

If an Appearance and an answering Affidavit is not filed within the time stated, orders may be made against you in your absence and without further notice.

The Appearance and answering Affidavit must be filed at the Probate Registry of the Court. If you do not have a solicitor, you may attend personally at the Probate Registry 1 Gouger Street Adelaide to do this.

Endorsements

Summons issued pursuant to section [*number*] of the [(*Act*/(*rule* (*number*)] of the *Probate Rules 2015* [*delete whichever is inapplicable*].

This Summons has the following endorsements under section [*number*] of the [*Act*]/rule [*number*] of the *Probate Rules 2015* (*delete whichever is inapplicable*):

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks the following orders:

[state briefly but specifically the orders sought]

Accompanying documents

This summons must be accompanied by an Affidavit.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is *[if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business]*.

Date:

.....
Signed by [*name*]

Plaintiff/Plaintiff's solicitor [*delete whichever is inapplicable*]

Notes

1. Where a practitioner is acting as agent for a principal practitioner, the name, address and telephone number of that principal practitioner and the L Code and P Code issued by the Law Society of South Australia to such practitioner must be endorsed on the backsheet to the summons - see rule 29(2)(c).
2. Two copies of any summons should be lodged in the Registry. Both copies should be signed, but neither dated. The date will be inserted in the Registry. Duplicates of supporting affidavits are not required.

**SOUTH AUSTRALIA
IN THE SUPREME COURT
TESTAMENTARY CAUSES JURISDICTION
No ... of 20 ...**

**In the Matter of A.B.
And
In the Matter of the *Wills Act 1936***

BETWEEN:

**C.D.
Plaintiff**

and

**E.F.
Defendant**

TO THE DEFENDANT: [*name*] of [*address*]

The plaintiff, [*name*] makes a claim against you or which may affect you. Details of the claim and relief sought are contained in the accompanying Affidavit.

Action required

If you wish to defend the claim, you must:

- (a) file an Appearance within 14 calendar days after service of this Summons on you; and
- (b) file an answering Affidavit within 28 calendar days after service of the Affidavit relied on by the plaintiff on you.

If an Appearance and an answering Affidavit is not filed within the time stated, orders may be made against you in your absence and without further notice.

The Appearance and answering Affidavit must be filed at the Probate Registry of the Court. If you do not have a solicitor, you may attend personally at the Probate Registry 1 Gouger Street Adelaide to do this.

Endorsements

Summons issued pursuant to section 7 of the *Wills Act 1936* and rule 92 of the *Probate Rules 2015*.

This Summons has the following endorsements under section [number] of the [Act/rule number] of the *Probate Rules 2015*:

Orders sought [*delete this section if statement of claim filed*]

On the grounds stated in the accompanying affidavit, the plaintiff seeks the following orders:

- 1 That the plaintiff have permission to make application for an order in the terms set forth in paragraph 2 of this summons.
- 2 That subject to permission being granted the Court approve and authorise the making of a will on behalf of the defendant in the terms of the draft will [being the exhibit “CD3” to the affidavit of C.D. sworn on 20... *or* filed in this matter (*or as the case may be*)] or in such other terms as the Court may deem fit.
- 3 That the costs of and incidental to this application be paid out of the estate of the said A.B.
- 4 Such further or other orders as the Court may think fit.

Accompanying documents

This summons must be accompanied by an Affidavit.

Plaintiff’s address

The plaintiff’s address for service is:

Place:

Email:

The plaintiff’s address is [*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*].

Date:

.....
Signed by [*name*]

Plaintiff/Plaintiff's solicitor [*delete whichever is inapplicable*]

Notes

1. Where a practitioner is acting as agent for a principal practitioner, the name, address and telephone number of that principal practitioner and the L Code and P Code issued by the Law Society of South Australia to such practitioner must be endorsed on the backsheet to the summons - see rule 29(2)(c).
2. Two copies of any summons should be lodged in the Registry. Both copies should be signed, but neither dated. The date will be inserted in the Registry. Duplicates of supporting affidavits are not required.

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

**In the Matter of A.B.
And
In the Matter of the *Wills Act 1936***

BETWEEN:

**C.D.
Plaintiff**

and

**E.F.
Defendant**

I E.F. of [address] consent to act as an executor (and trustee) of the abovenamed A.B.

Signed

Dated 20...

I G.H. of [address] certify that the signature written above is the signature of the person giving the above consent.

Signed

Dated 20...

GRANT

*Supreme Court of South Australia**Testamentary Causes Jurisdiction*

The estate of: [include any allowed aliases – see rule 12]
Late of: [see rule 12(5)]
Place of death: [include State or Territory of Australia or country outside Australia]
Date of death: [see rule 28]

Date of grant: LEAVE BLANK

Grant of: PROBATE OF THE WILL [AND TWO CODICILS] (COPY [COPIES] ANNEXED)

[Or LETTERS OF ADMINISTRATION WITH THE WILL ANNEXED or LETTERS OF ADMINISTRATION or PROBATE OF THE WILL IN SOLEMN FORM (COPY ANNEXED) or as the case may be]

[Here recite any limitations on the grant]

Is granted to: AB of the executor as described in the will [or as the case may be]

[Here briefly recite any orders pursuant to which the grant issues, any renunciations, any leave that is reserved to non-proving executors and any other relevant matter]

Registrar of Probates

Notes

- 1 If space is insufficient it is permissible to refer to an annexed sheet [or sheets] being “Annexure A” [or “B” or as the case may be]. An annexure may be in narrative form.
- 2 The following is an example of how a grant may issue:

GRANT

Supreme Court of South Australia

Testamentary Causes Jurisdiction

The estate of: AB otherwise CD deceased

Late of: [123 Main Street Anywhere 5999]

Place of death: [Adelaide 5000]

Date of death: [1 January 2014]

Date of grant:

Grant of: PROBATE OF THE WILL AS CONTAINED IN A PHOTOCOPY

LIMITED UNTIL THE ORIGINAL WILL OR A MORE AUTHENTIC COPY IS BROUGHT INTO THE REGISTRY

Is granted to: EF of [Unit 3, 456 Main Street Anywhere 5999] one of the executors as described in the will

Pursuant to an order dated [1 January 2015] made by the Registrar of Probates

Leave is reserved to GH of [789 Main Street Anywhere 5999] the other executor described in the will to apply for probate

Registrar of Probates

**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))*] of A.B. [formerly of..... *(see rule 12(6))*] but] late of [address] deceased (“the deceased”).
- 2 I am [We are] the son[s] [*or other relationship to the deceased (see rules 11(8) and 13(4))*] of the deceased and the executor [the executors] [one of the executors] as described in the will.
- 3 [G.H. wife (husband) of the deceased an executor described in the will died during the lifetime of the deceased] [*or G.H. of (address and relationship, if any) the other executor described in the will has renounced probate (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 probate.
- 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 of attesting witness*)

[*print name of witness*]

[*print title of attesting witness*]

[*ID number of witness*]

Notes

1 The oath must clear off other persons having a prior entitlement to the grant – see rule 33.

2 Where leave is to be reserved for non-proving executor[s] the following endorsement must be added at the foot of the oath:

Leave to be reserved for IJ of [relationship to the deceased if within rule 11(8)] the other executor as described in the will [or as the case may be] to apply for probate.

3 Where the application is made by a personal applicant for a grant of probate in respect of the estate of a deceased person who died before 1 July 1987, for paragraph 6 above, substitute:

6 To the best of my knowledge information and belief the deceased died possessed of property in the State of South Australia consisting of real estate not exceeding in value the sum of *\$..... and personal estate not exceeding in

value the sum of *\$.....[or real estate only not exceeding in value the sum of *\$.....] [or personal estate only not exceeding in value the sum of *\$.....] as set out in the inventory annexed hereto and marked “A”.

* The gross amount of real and/or personal estate in South Australia must be sworn to

- 4 Where the testator died on or after the 5th August 1996 and the provisions of section 20A of the *Wills Act 1936* apply so as to revoke the appointment of the testator’s former spouse as one of the executors of the will or if the applicant’s title to the grant is dependent upon the revocation of the executorship of the former spouse or upon the operation of the section being excluded then refer to the modifications of the form of oath below.

Modifications to Form 37

(a) Oath of executor where the appointment of one of the executors has been revoked by section 20A(1) of the Wills Act 1936

[Heading]

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

- 1 I [We] believe (complete as in Form 37)
- 2 I am [We are] the daughter[s] [or as the case may be] and the executor [the executors] [one of the executors] as described in the will.
- 3 The appointment of G.H. the former spouse of the deceased an executor named in the will has been revoked pursuant to section 20A(1)(b) of the *Wills Act 1936*.
- 4 I [We] will: (complete as in Form 37)

(b) Oath of executor where the applicant's title to the grant is dependent upon the application of section 20A(1) of the Wills Act 1936 (eg. the testator's former spouse having been appointed the sole instituted executor of the will).

[Heading]

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

- 1 I [We] believe [complete as in Form 37]
- 2 I am [We are] the son[s] [or other relationship to the deceased if applicable] and the executor [the executors] [one of the executors] as described in the will.
- 3 The appointment of G.H. the former spouse of the deceased an executor named in the will has been revoked pursuant to section 20A(1)(b) of the *Wills Act 1936* the marriage between the testator and G.H. 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”.

4 I [We] will: *[complete as in Form 37]*

- (c) ***Oath of executor where the marriage of the testator has been terminated and the former spouse has been appointed one of the executors of the will, or sole instituted executor, or is an executor according to the tenor, or is authorised by the terms of the will to nominate an executor and the applicant’s title to the grant is dependent upon such appointment or authorisation not having been revoked pursuant to section 20A(1) of the Wills Act 1936.***

[Heading]

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

1 I believe *[complete as in Form 37]*

2 I am the former spouse of the deceased and the executor *[the executors]* *[one of the executors]* as described in the will.

3 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”, but the deceased by codicil dated 20... affirmed the will showing no intention of revoking the appointment of myself as the sole executor *[or the sole instituted executor]* *[or as the case may be]**.

4 I will: *[complete as in Form 37]*

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

- (d) ***Oath after citation to propound a later will***

[Heading]

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

1 In default of appearance of the person[s] cited to propound the document
..... 20... purporting to be the last will and testament of A.B. late
of [address] deceased (“the deceased”) the Registrar of Probates on
..... 20... ordered that probate of the last will and testament dated
..... 20... of the deceased be granted to me the executor [the
executors] [one of the executors] as described in the will.

2 I [We] believe the paper writing now produced to and marked by me [us]
to contain the last will and testament of the deceased.

3 I am [We are] the [complete as in Form 37].

(e) ***Oath on proving a lost will as contained in a copy or draft, etc.***

[Heading]

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

1 On 20... the Registrar of Probates ordered that probate of the
last will and testament as contained in the copy [or a completed copy or
reconstruction (or as the case may be)] (being the exhibit marked “A”
referred to in the affidavit of X.Y. sworn on 20...) of A.B.
late of [address] deceased (“the deceased”) be granted to me the executor
[the executors] [one of the executors] as described in the will limited until
the original will or a more authentic copy of it be brought into and left in
the Probate Registry of this Court.

2 I [We] believe the paper writing now produced to and marked by me [us]
to contain the last will and testament [as contained in the said copy (or as
the case may be)] of the deceased.

3 I am [We are] the son[s] of the deceased [as the case may be] and the sole
executor [or the executors (or as the case may be)] therein named.

4 I [We] will:

- (a) collect, get in and administer according to law the estate of the deceased limited as aforesaid.
- (b) if required to do so [*complete as in Form 37*].

(f) Oath after order has been made under section 12(2) of the Wills Act 1936 admitting an informal will to probate.

[*Heading*]

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

- 1 On 20... the Registrar of Probates ordered that a document (being the exhibit marked “A” referred to in the affidavit of X.Y. sworn on 20...) be admitted to probate as the last will of A.B. late of [*address*] deceased (“the deceased”) and that probate of the same be granted to me the executor [the executors] [one of the executors] as described in the will.
- 2 I [We] believe the said document now produced to and marked by me [us] to contain the last will and testament of the deceased.
- 3 I am [We are] the [*complete as in Form 37*].

(g) Oath after order has been made under section 25AA of the Wills Act 1936 rectifying will.

[*Heading*]

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

- 1 A.B. late of [*address*] deceased (“the deceased”) made and duly executed his last will and testament bearing date 20... (“the will”) and appointed me the sole executor [or us the executors (*or as the case may be*)] therein named.
- 2 On 20... the Registrar of Probates ordered that the will be rectified (a copy of the said order is annexed hereto and marked ‘A’)

3 I [We] believe the paper writing now produced to and marked by me [us] to contain a true copy of the will of the deceased (the same being contained in a type written copy of the will as rectified by the aforesaid order).

4 I am [We are] the [*complete as in Form 37*].

(h) Oath where rule 12(2) applies (variation between name in heading of will and name signed)

[*Heading*]

I [or We] [*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] contain the last and will testament [*and codicil or two codicils or as the case may be (see rule 11(4))*] of A.B. otherwise X.Y. [*formerly of (see rule 12(6)) but late of [address] deceased (“the deceased”*).

2 The deceased is named X.Y. in the heading of the will but has signed the will “A.B.”. The name “X.Y.” is the more correct of the [*here provide evidence establishing that X.Y. is more correct*].

3 I am [We are] the son[s] [*or other relationship to the deceased (see rules 11(8) and 13(4))*] of the deceased [*complete as in Form 37*].

(i) Oath where rule 12(3) applies (oath where testator’s name wrongly spelt in will and will signed by initials etc)

[*Heading*]

I [or We] [*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] contain the last and will testament [*and codicil or two codicils or as the*

*case may be (see rule 11(4)) of A.B. otherwise X.Y. [formerly of
(see rule 12(6)) but late of [address] deceased (“the deceased”).*

- 2 The deceased is named X.Y. in the heading of the will but has been signed using one or more initials [*or by a mark*] [*or by an abbreviated given name*] [*or the signature is not decipherable*]. The correct name of the deceased is “A.B.” [*here provide evidence establishing the change of name*].
- 3 I am [We are] the son[s] [*or other relationship to the deceased (see rules 11(8) and 13(4))*] of the deceased [*complete as in Form 37*].

**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 believe the paper writing [or if more than one testamentary document, paper writings] now produced to and marked by me to contain a true and correct copy of the last will and testament [and codicil *or as the case may be*] (“the will”) of A.B. late of [address] deceased (“the deceased”) the same being contained in the probate [or exemplification of the probate] [or office copy of the probate (*see section 30 of the Act*)], thereof who died at on 20... aged years.
- 2 Probate of the will was granted by the Court on 20... to C.D. of [address] son of the deceased [or other relationship to the deceased] an executor as described in the will leave then having been reserved for me to apply for probate.
- 3 I am a son of the deceased [or as the case may be] and an executor as described in the will.
- 4 I 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 administration of the estate;
 - (c) if required to do so by the Court, deliver up to the Court the grant of double probate.
- 5 The deceased died possessed of assets in the State of South Australia remaining unadministered [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 of attesting witness*)[*print name of witness*]

[*print title of attesting witness*]

[*ID number of witness*]

Notes

- 1 The oath must clear off other persons having a prior entitlement to the grant – see rule 33.
- 2 Where the deceased has died on or after the 1 July 1987, the applicant(s) for the grant of double probate must lodge with the application an affidavit in Form 55 disclosing all the unadministered assets and liabilities known to the applicant(s) at the time of making the application (see rule 8(1)).

**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 A.B. late of [address] deceased (“the deceased”) died at on 20... aged years.
- 2 The deceased made and duly executed her last will and testament dated 20... [or as the case may be] (“the will”) and thereof appointed me sole executor.
- 3 On 20... the Honourable Justice [or His Honour Judge] in action No of 20... pronounced for the force and validity of the will a true copy of the sealed order being annexed hereto and marked “A”.
- 4 I believe the paper writing [or if there is more than one testamentary document paper writings] now produced to and marked by me to contain the will of the deceased.
- 5 I am the son [or other relationship] of the deceased and the executor as described in the will.
- 6 I will: (continue as in Form 37)

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 The oath must clear off other persons having a prior entitlement to the grant – see rule 33.
- 2 Where an application for a grant of letters of administration is made following a judgment in a probate action pronouncing against the force and validity of a document purporting to be the last will of the deceased, the details of the order must be recited in the oath (as in Form 39) and a true copy of the sealed order must be annexed to the oath. The order of the Court must also be recited in the grant.

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

In the Estate of A.B. deceased

I C.D. certify that the within [*or* the above] will [*or* codicil] was on 20...
duly executed by A.B. of [*address*] as his [her] last will [*or* as a codicil to his [her] last
will] in the presence of E.F. of [*address*] and of myself and that the said E.F. and myself
were both present at the same time when the said A.B. executed the same and that we at
the request of the said A.B. in his [her] presence and in the presence of each other
thereupon subscribed our names as witnesses.

Dated 20...

.....

(Signed) C.D.

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

In the Estate of A.B. deceased

I [or We] [full name, address and occupation of deponent] DO TRULY AND SOLEMNLY AFFIRM 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 I am [We are] the son[s] [or other relationship to the deceased (see rules 11(8) and 13(4))] of the deceased and one of the executors as described in the will [or as the case may be – refer to rule 13] named in the will.
- 3 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 probate.
- 4 The deceased died at on 20... aged years.
- 5 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].

And I [We] make this declaration in pursuance of the *Administration and Probate Act 1919*.

Declared at) C.D.
by C.D [and E.F.] On 20...) [E.F.]

Before me:

.....

Notes

- 1 The declaration must clear off other persons having a prior entitlement to the grant – see rule 31.
- 2 Where the application is made by a personal applicant (see rule 7) for a grant of probate in respect of the estate of a deceased person who died before 1 July 1987, for paragraph 6 above substitute:
 - 6 To the best of my knowledge, information and belief the deceased died possessed of property in the State of South Australia consisting of real estate not exceeding in value the sum of *\$..... and personal estate not exceeding in value the sum of *\$..... [or real estate only not exceeding in value the sum of *\$.....] [or personal estate only not exceeding in value the sum of *\$.....] as set out in the inventory annexed hereto and marked “A”.
- *The gross amount of real and/or personal estate in South Australia must be sworn to.
- 3 Where the testator died on or after the 5th August 1996 and the provisions of section 20A of the *Wills Act 1936* apply so as to revoke the appointment of the testator’s former spouse as one of the executors of the will or if the applicant’s title to the grant is dependent upon the revocation of the executorship of the former spouse or upon the operation of the section being excluded, then refer to the modifications in Form 37.

**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]*.

**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 A.B. late of [address] deceased (“the deceased”) died on 20... .ataged years having made and duly executed his [her] last will and testament [and codicil *or* two codicils *or as the case may be (see rule 11(3))*] (“the will”).
- 2 On 20... probate of the will was granted to C.D. son of the deceased the executor as described in the will [*or as the case may be*] who died on 20... intestate [*or as the case may be, showing how the chain of executorship is broken*] leaving part of the estate of the deceased unadministered.
- 3 I believe the paper writing now produced to and marked by me to contain a true and correct copy of the last will of the deceased the same being contained in the probate [*or an exemplification of the probate*] [*or an office copy of the probate (see section 30 of the Act)*] thereof.
- 4 I am the son of the deceased [*or as the case may be*] and one of the residuary devisees and legatees [*or as the case may be*] named in the will.
- 5 I will:
 - (a) collect, get in and administer according to law the unadministered estate of the deceased;
 - (b) if required to do so by the Court, produce to the Court a full statement and account of my 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 a statement and account verified by my declaration of all the estate of the deceased left unadministered and of my administration of such estate.

6 The deceased died possessed of assets in the State of South Australia remaining unadministered [*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 of attesting witness*)

[*print name of witness*]

[*print title of attesting witness*]

[*ID number of witness*]

Note

Where the deceased died on or after the 1 July 1987 the applicant for the grant must lodge with the application an affidavit in Form 55 disclosing all the unadministered assets and liabilities wherever situated existing at the date of the death of the deceased and known to the applicant at the time of making the application.

**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 A.B. late of [address] deceased died intestate [clear off all persons having a prior entitlement to the grant using the appropriate wording contained in the Table to rule 11(7)].
- 2 I am a [here describe the applicant as in rule 14] of the deceased*.
- 3 [(If it is the case) The other person/people entitled in distribution is/are (use name and relationship to show entitlement)].
- 4 I 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 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 a statement and account verified by my declaration of all the estate of the deceased and of my administration of such 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*]

***Note**

If a parent of the deceased is described as the “only” person entitled, evidence must be given as to the death of the other parent during the lifetime of the intestate.

Modifications of Form 44

- (a) *Oath for administration to surviving spouse where there are other persons entitled to share in the estate by virtue of section 72G(1)(b)(i)(B) and/or section 72H(2) of the Act*

[Heading]

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

- 1 A.B. late of [address] deceased died intestate.
- 2 I am the [widow] [widower] and one of the persons entitled to share in the estate of the deceased.
- 3 I will: [complete as in Form 44].

- (b) *Oath for administration to surviving spouse where the value of the intestate estate does not exceed the prescribed amount and there is no domestic partner entitled to share in the estate by virtue of section 72H(2) of the Act but there are issue who may become entitled to share in the estate under section 72G(1)(b) of the Act in the event of an accretion to the estate resulting in the value of the intestate estate exceeding the prescribed amount*

[Heading]

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

- 1 A.B. late of [address] deceased died intestate.
- 2 I am the [widow] [widower] and the only person now entitled to the estate of the deceased.
- 3 I will: [complete as in Form 44].

Note

“Prescribed amount” is defined in section 72G(2) of the Act

- (c) *Oath for administration to surviving spouse who under section 72G(1)(a) of the Act is entitled to the whole of the estate - there being no domestic partner entitled to share in the estate under section 72H(2) of the Act*

[Heading]

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

1 A.B. late of [address] deceased died intestate.

2 I am the [widow] [widower] and only person entitled to the estate of the deceased.

3 I will: [complete as in Form 44].

(d) Oath for administration to domestic partner where the deceased is survived by a spouse and/or issue

[Heading]

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

1 A.B. late of [address] deceased died intestate.

2 By an order dated the day of 20.. made by the Court at under the *Family Relationships Act 1975*, I was declared the domestic partner of the deceased as at the date of his [her] death (a true copy of the sealed order being annexed hereto and marked "B").

3 I am the domestic partner and one of the persons entitled to share in the estate of the deceased.

4 I will: [complete as in Form 44].

(e) Oath for administration where the value of the intestate estate does not exceed the prescribed amount - son or daughter applies on renunciation of surviving spouse

[Heading]

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

- 1 A.B. late of [address] deceased died intestate leaving C.D. his [her] widow [widower] and the only person now entitled to the estate who has renounced letters of administration of the estate of the deceased.
- 2 I am a son [daughter] of the deceased and a person who may become entitled to share in the estate of the deceased in the event of an accretion thereto.
- 3 I will: [complete as in Form 44].

Note

“Prescribed amount” is defined in section 72G(2) of the Act

(f) Oath for administration where the value of the intestate estate exceeds the prescribed amount - son or daughter applies on renunciation of surviving spouse

[Heading]

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

- 1 A.B. late of [address] deceased died intestate leaving C.D. his [her] widow [widower] and one of the persons entitled to share in the estate who has renounced letters of administration of the estate of the deceased.
- 2 There is no person adjudged under the *Family Relationships Act 1975*, to have been a domestic partner of the deceased as at the date of his [her] death.*
- 3 I am the son [daughter] and one of the persons entitled to share in the estate of the deceased.
- 4 I will: [complete as in Form 44].

Notes

- * This deposition is required in order to clear off the prior entitlement of a domestic partner to the administration of the estate.

“Prescribed amount” is defined in section 72G(2) of the Act

(g) ***Oath for administration to child or other issue having beneficial interest***

[*Heading*]

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

- 1 A.B. late of [*address*] deceased died intestate a [*widow*] [*widower*] without any other person entitled in priority to share in her [*his*] estate by virtue of any enactment.
- 2 I am a son [*daughter*] and only person entitled to the estate [*or one of the persons entitled to share in the estate*] of the deceased.

or

- 2 I am a grandson [*granddaughter*] (being the son [*daughter*] of E.F., son [*daughter*] of the intestate who died in the lifetime of the intestate) and the only person entitled to the estate [*or one of the persons entitled to share in the estate*] of A.B. deceased.
- 3 I will: [*complete as in Form 44*].

Note

Where the applicant's title to the administration depends upon establishing paternity the application should be supported by evidence of the claim to the relationship. Refer to section 7 of the *Family Relationships Act 1975*.

(h) ***Oath for administration to adopted child***

[*Heading*]

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

- 1 A.B. late of [*address*] deceased died intestate a widower without any other person entitled in priority to share in his estate by virtue of any enactment.
- 2 By an order dated 20... made by the Court at under the *Adoption of Children Act 1966*, [*or as the case may be*] I was duly adopted by the deceased and E.F. his wife and that the said order is still subsisting, a certified extract under the hand and seal of the Principal

Registrar of Births, Deaths and Marriages relating to the adoption [*or as the case may be*] is annexed and marked “B”.

3 I am the son [*or daughter*] and only person entitled to the estate [*or one of the persons entitled to share in the estate*] of the deceased.

4 I will: [*complete as in Form 44*].

(i) Oath for administration to child where the deceased has died divorced
[Heading]

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

1 A.B. late of [*address*] deceased died intestate a divorced man [a divorced woman] without any other person entitled in priority to share in his [her] estate by virtue of any enactment.

2 The marriage between the said A.B. deceased and X.Y. 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”.

3 The deceased did not subsequently remarry.

4 I am a son [*or daughter*] and the only person entitled to the estate [*or one of the persons entitled to share in the estate*] of the deceased.

5 I will: [*complete as in Form 44*].

(j) Oath for administration to father or mother
(Heading)

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

1 A.B. late of [*address*] deceased died intestate a widower [widow] [single person] [**divorced man*] [**divorced woman*] without issue or any other

person entitled in priority to share in his [or her] estate by virtue of any enactment.

2 I am the father [mother] and only person entitled to the estate [*or, where both parents of the deceased are living, one of the persons entitled to share in the estate*] of the deceased.

3 I will: [*complete as in Form 44*].

Notes

*1 If the deceased died intestate divorced see paragraphs 2 and 3 in modification (i) above for the additional wording required in the oath.

*2 Where the applicant's title to the administration depends upon establishing paternity, see note to modification (g) above.

(k) Oath for administration to brother or sister

[*Heading*]

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

1 A.B. late of [*address*] deceased died intestate a widower [widow] [single person] [divorced man*] [divorced woman*] without issue or a parent or any other person entitled in priority to share in his [*or her*] estate by virtue of any enactment.

2 I am a brother [sister] and the only person entitled to the estate [*or as the case may be*] of the deceased.

3 I will: [*complete as in Form 44*].

Note

*If the deceased died intestate divorced see paragraphs 2 and 3 in modification (i) above for the additional wording required in the oath.

**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 A.B. late of [address] deceased died at on 20...
intestate.
- 2 On 20... letters of administration of the estate of the deceased
were granted by the Court to C.D. widow of the deceased and one of the persons
entitled to share in the estate of the deceased.
- 3 C.D. died on 20... leaving part of the estate unadministered.
- 4 I am a son [daughter] and one of the persons entitled to share in the estate of
A.B. deceased.
- 5 There is no person declared under the *Family Relationships Act 1975*, to have
been a domestic partner of A.B. deceased as at the date of his death.
- 6 I will:
 - (a) collect, get in and administer according to law the unadministered estate
of the deceased;
 - (b) if required to do so by the Court, produce to the Court a full statement
and account of my 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 the Public Trustee of the State of South Australia
within six calendar months from the date of administration being granted
to me a statement and account verified by my declaration of all the estate

of A.B. deceased left unadministered and of my administration of such estate.

7 The deceased died possessed of assets in the State of South Australia remaining unadministered [*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 of attesting witness*)
[*print name of witness*]
[*print title of attesting witness*]
[*ID number of witness*]

Note

Where the deceased died on or after 1 July 1987 the applicant for the grant must lodge with the application an affidavit in Form 55 disclosing all the unadministered assets and liabilities known to the applicant at the time of making the application.

**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 A.B. late of [address] died at in the said State on 20... aged years.
- 2 There is now pending in the Court a probate action (“the action”) No of 20.... concerning the validity of the will of the deceased dated 20...
- 3 By order of the Honourable Justice [or His/Her Honour Judge] dated 20... it was ordered that letters of administration of the estate of the deceased be granted to me pending the action. A true copy of the sealed order is annexed and marked “A”.
- 4 Pending the action I will:
 - (a) under the control and direction of this Court collect, get in and administer according to law the estate of the deceased and will not distribute the residue of the estate;
 - (b) if required to do so by the Court, produce to the Court a full statement and account of my 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 a statement and account verified by my declaration of all the estate of the deceased and of my administration of such estate pending the said action.

- 5 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 The application for the order appointing an administrator *pendente lite* is made in the probate action.
- 2 If the order obtained contains any limitations then the form of oath must be varied accordingly.
- 3 The grant of administration ceases on the determination of the probate action and not upon the issue of a grant in substitution.

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

In the Estate of A.B. deceased

Whereas A.B. late of [address] deceased died on 20... at
having made and duly executed his [her] last will and testament dated 20...
in which he [she] appointed the undersigned C.D. the executor as described in the will
[or as the case may be].

Now I, the said C.D. of [address, occupation and relationship as in rule 13] do hereby
declare that I have not intermeddled in the estate of the said deceased and will not
hereafter intermeddle in the estate with intent to defraud creditors and I do hereby
renounce all my right and title to probate and execution of the will and to letters of
administration with the will annexed of the estate of the deceased.*

Signed by C.D. on 20...) C.D.
in the presence of:)

.....

.....

(Witness's name, address)

***Note**

If the renunciant does not wish to renounce an entitlement to letters of
administration with the will annexed the words “and to letters of administration
with the will annexed of the estate of the deceased” should be omitted.

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

In the Estate of A.B. deceased

Whereas A.B. late of [address] died on 20... at having made and duly executed his [her] last will and testament dated 20... in which he [she] appointed XY Limited of [address] (“the Company”) the executor as described in the will [and the residuary devisee and legatee in trust (*or as the case may be*)]: Now the Company hereby renounces all its right and title to probate and execution of the will and to letters of administration with the will annexed of the estate of the deceased*.

The Common Seal of XY Limited)
was hereunto affixed by authority)
of the Directors on..... 20...) L.S.

in the presence of:
.....
.....

I C.D. Manager of XY Limited declare that the Company has not intermeddled in the estate of A.B. deceased and will not hereafter intermeddle in the estate with intent to defraud creditors.

Declared at)
by C.D. on 20...) C.D.

Before me:
.....

***Note**

If the renunciant does not wish to renounce an entitlement to letters of administration with the will annexed the words “and to letters of administration with the will annexed of the estate of the deceased” should be omitted.

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

In the Estate of A.B. deceased

Whereas A.B. late of [address] died on 20... at having made and duly executed his [her] last will and testament dated 20... in which he [she] did not appoint an executor but named me the undersigned C.D. residuary devisee and legatee [*or as the case may be*]:

Now I the said C.D. of [*address, occupation and relationship as in rule 11(8)*] do hereby renounce all my right and title to letters of administration with the will annexed of the estate of the deceased.

Signed by C.D. on 20...) C.D.
in the presence of:)

.....

.....
(*Witness's name address*)

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

In the Estate of A.B. deceased

Whereas A.B. late of [address] deceased died on 20... , intestate [*clear off all persons having a prior entitlement to the grant in the manner described in the Table to rule 11(7)*] leaving C.D. his [her] widow [*or widower or as the case may be*] and one of the persons entitled to his [her] estate [*or as the case may be*]:

Now I the said C.D. of [*address and relationship as in rule 14*] do hereby renounce all my right and title to letters of administration of the estate of the deceased.

Signed by C.D. on 20...) C.D.
in the presence of:)

.....

.....
(*Witness's name, address*)

**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 A grant of [probate of the will (and codicil or codicils)] [letters of administration with the will annexed of the estate] [letters of administration of the estate] [or as the case may be] of A.B. late of [as in grant] deceased who died aton 20... aged years was granted to me by the Supreme Court of the State of at on 20...
- 2 The deceased was at the time of his [her] death domiciled in within the jurisdiction of the said Court [the last seven words to be struck out if inapplicable].
- 3 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 of attesting witness)

[*print name of witness*]

[*print title of attesting witness*]

[*ID number of witness*]

Notes

- 1 If the deceased was not at the date of his/her death domiciled within the State in which the original grant was made, the oath must address rule 50(5).
- 2 If an executor predeceased the testator or died since the death of the testator without having taken a grant of probate or has renounced probate it must be so sworn in the oath.
- 3 If the grant was made to two or more executors one of whom has since died the death of the deceased executor must be sworn to in the oath.
- 4 If it is sought to re-seal a grant where the deceased held no property in South Australia except as trustee then the capacity in which the property is so held must be disclosed in the oath.
- 5 An application to re-seal a grant of probate made after the death of the executor to whom it has been granted by his executor will be accepted provided that probate of the will of the deceased executor has been granted or re-sealed in South Australia. The oath in this instance must fully disclose all the events that have happened so that the title of the executor of the deceased executor to re-seal his testator's grant is thereby established.

Modifications to Form 52

(a) *Oath by attorney of executor or administrator authorised to apply for the sealing of the grant*

[Heading]

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

- 1 A grant of probate of the will [or as the case may be] of A.B. late of [as in grant] deceased who died at on 20... aged years was granted to C.D. by the Supreme Court of the State of at on 20...
- 2 The deceased was at the time of his [her] death domiciled in within the jurisdiction of the said Court [the last seven words to be struck out if inapplicable].
- 3 I am the attorney appointed by C.D. (which appointment has not to the best of my knowledge information and belief been revoked) and am duly authorised to apply to this Court for the sealing of the grant.
- 4 To the best of my knowledge 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].

Notes

- 1 A copy of the power of attorney must be lodged with the application.
- 2 For a form of power of attorney, see Form 59.

(b) *Oath by a practitioner authorised in writing to apply on behalf of the executor or administrator*

[Heading]

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

- 1 A grant of probate of the will [or as the case may be] of A.B. late of [as in grant] deceased who died at on 20... aged

years was granted to C.D. by the Supreme Court of the State of at on 20...

2 The deceased was at the time of his death domiciled in within the jurisdiction of the said Court [*the last seven words to be struck out if inapplicable*].

3 I am the person authorised in writing by C.D. to apply on his [her] behalf for the sealing of the grant. The authority is annexed and marked "A". I believe that the signature to the authority is of the proper handwriting of C.D. and that such authority has not been revoked.

4 To the best of my knowledge 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*].

(c) *If leave has been reserved in the grant to another executor to apply for probate the following words must be inserted at the end of paragraph 1:*

"Leave being reserved for G.H. the other executor to apply for probate",

and the following additional deposition must be made in the oath:

"2 That no grant of double probate has been made by the Supreme Court of to the aforesaid executor to whom leave was reserved to apply for probate."

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

In the Estate of A.B. deceased

Take notice that after the expiration of eight days the Court may re-seal [probate of the will] [letters of administration with the will annexed of the estate] or [letters of administration of the estate] of A.B. [*as in the grant*] deceased granted by the Supreme Court of the State of at on 20...

Solicitor for

(To be advertised only if the Registrar so requires and in such manner as the Registrar may direct.)

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

In the Estate of A.B. deceased

	Value	
	\$	¢
Real Estate		
<i>[Here set out the parcels of the land as per Land Grant Certificate of Title, etc with a description of the improvements thereon]</i>		
Personal Estate		
Cash in the house		
Cash at bankers		
Cash at Building Societies etc.		
Furniture, plate, linen, china, books, pictures, wearing apparel, jewels, and ornaments		
Wine and other liquors		
Motor vehicles, farming stock and implements of husbandry		
Stock-in-trade		
Goodwill, etc., of trade or business		
Leasehold estates		
Life assurance policies and bonuses		
Rents due at the death of deceased		
Mortgages and interest due at the death of deceased		
Bonds, bills, notes, and interest due at the death of deceased		
Book and other debts		
Treasury Bills		
Government Debentures		
Stock or shares		
Wages due, long service leave entitlement etc.		
Property not comprised within the above description, viz.		
.....		

**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 [we are] the applicant[s] for a grant of probate [administration] in the estate of A.B. late of [address] deceased.
- 2 To the best of my [our] knowledge information and belief the Statement annexed hereto and marked "A" is a true statement of the assets and liabilities of the deceased wherever situated known to me [us] at the time of making this application.

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 Assets

- A Assets of the deceased situated in South Australia must be shown in the Statement under the heading “*Assets within South Australia*”. If there are assets situated outside South Australia then these assets must be shown separately under the heading “*Assets outside South Australia*”, and the location of such assets must be given. It is sufficient for the purposes of satisfying this requirement that the location of the asset be identified by the State or Territory (if situated within the Commonwealth of Australia) or the name of the country (if situated outside the Commonwealth of Australia).
- B Where the deceased was not at the date of death domiciled in Australia disclosure is only required in respect of assets situated in Australia and liabilities that are a charge on those assets or which arose in Australia – Refer to section 121A(2a) and 7(a) of the Act
- C The known or estimated market value of each asset must be given in the Statement. The value to be given is the gross value at the date of death, provided that where the deceased died more than 12 months before the date of the application for a grant the gross value as at the date of application is to be used. If the asset has not been valued by a licensed valuer or is not otherwise fixed (e.g. cash in a bank account) then the source of the estimated value must be disclosed, e.g.:

(furniture) “*executor’s estimated value*.....\$8,000.00”
(shares) “*value as per (name of newspaper and date)*”

or

“*value as per information
supplied by company secretary*\$ 447.68”

If the asset has been valued by a licensed valuer that value together with the name of the valuer must be disclosed, e.g.:

(real estate) “*Valuer-General’s valuation*.....\$85,000.00”
(antiques) “*(name of licensed valuer)
valuation*\$15,000.00”

It is not necessary to furnish evidence of values unless the Court or the Registrar under rule 76 so directs.

- D The assets disclosed should be listed and identified in the Statement under the headings and sub-headings below and in the order in which they are given **but the Statement should not show a heading or a sub-heading if the deceased did not have property of that description.** The headings and sub-headings are:
- a Real Estate
(state title reference and address)
 - b Personal Estate

- (1) Refund of accommodation bond or licence to occupy
(supply particulars of provider, location of accommodation and amount due)
- (2) Leasehold property
(supply particulars of property and name of lessor, expiry date, etc.)
- (3) Property held on Crown Licence
(supply details, e.g. licence no., expiry date, etc.)
- (4) Rents due or accrued
(indicate property and state rental period for which rents are due or accrued)
- (5) Furniture, household effects, watches, jewellery
(supply known or estimated total value of the above and indicate where situated)
- (6) Motor vehicles and boats
(supply details, e.g. make, registration no., etc.)
- (7) Money in hand, home or other premises
(give particulars and amounts)
- (8) Money in Bank, *Building Society, Credit Union or Financial Institution, fixed and other deposits, loans secured and unsecured
(give name and location of bank, account no., and balance as at date of death)

[***Note:** money in a share account in a Building Society may be treated as a deposit for the purpose of disclosure]
- (9) Life assurance policies and bonuses
(state name of company, policy no., and amount due or surrender value)
- (10) Shares (listed and unlisted), options or convertible notes in Companies
(state name of company, number and class of shares, etc.)
- (11) Stapled securities (listed and unlisted)
(state name of stapled security, number of securities and other details including basis of valuation)
- (12) Inscribed stock, bonds and debentures, unsecured notes, units in unit trusts, and futures and other similar contracts
(supply details)
- (13) Annuities
(supply details including name of fund manager and basis of valuation)
- (14) Mortgages (plus accrued interest)
(state name of mortgagor, registered number (if registered), property over which secured and amount due)
- (15) Debts due to the deceased, worker's compensation and similar entitlements

(supply details of debt, etc)

[**Note:** where there is a bare chose in action, such as a claim for damages, the details must be stated but no value should be ascribed to the chose in action and the statement of assets and liabilities should include an undertaking to make such disclosure. If the claim subsequently succeeds and a definite money figure is obtained an affidavit complying with rule 8(2) must be lodged.]

(16) Property held in trust for the deceased, property and investment trusts, money in off-shore accounts, off-shore trusts and off-shore investments
(supply details)

(17) Interest in deceased estate
(state name and date of death of deceased person and name of trustee(s) and nature of interest)

(18) Rural assets:

[**Note:** under this heading use general descriptions where possible]

(a) Crops, growing or harvested
(supply details and known or estimated value)

(b) Wool
(supply details, e.g. number of bales of wool on hand and/or amount due from sale thereof, also entitlement to wool market support refunds [if any])

(c) Grain in pools
(supply details, e.g. identify pool, the quantity of grain held in pool and known or estimated value)

(d) Grain on hand, seed, fertilizers and sundries
(supply details)

(e) Fruit on hand or in store
(supply details)

(f) Bulk handling tolls
(supply details of tolls standing to the credit of the deceased)

(g) Livestock
(supply details, e.g. number and description)

(h) Farming implements, plant and equipment
(supply a brief but not detailed summary of items)

(19) Interest in a farming partnership or as a share farmer
(advise the deceased's interest at date of death in partnership or as share farmer)

(20) Interest in a partnership or joint venture
(supply details)

- (21) Plant, machinery, tools and equipment
(supply a brief but not detailed summary of items)
- (22) Trade, business or profession
(advise nature of trade etc., and provide known or estimated values of business assets)
- (23) Salary, wages, commissions, director’s fees and payments in lieu of leave or other benefits
(supply name of employer or company, give details of benefits)
- (24) Taxation credits
(supply details, e.g. Provisional Tax, group certificates, etc.)
- (25) Entitlement under a medical benefits or hospital fund (including refund of contributions)
(supply details)
- (26) Superannuation (if payable to the estate)
(supply details)
- (27) Property over which the deceased had a general power of appointment exercised by his will
(supply details)
- (28) Other property not included above e.g. library, paintings, coins and stamps, antiques and other collectables, gold and silver in specie, etc.
(supply full details of all other personal chattels and effects)

2 Liabilities

- A Liabilities must be listed in the Statement under the headings “secured” or “unsecured”.
- B The amount of each liability must be stated (with a brief description) or, if the amount is not known, an estimate of the amount must be stated. It is not necessary to furnish evidence of values unless the Court or the Registrar under rule 76 so directs.
- C Funeral expenses should not be disclosed – such expenses are not a liability of the deceased.

3 Balance of the estate

State the balance at the end of the Statement as follows:

Summary of Assets and Liabilities	
Assets	\$ _____
Liabilities	\$ _____
Net Estate disclosed	\$ _____

- 4 Property held by the deceased as joint tenant should not be included in the Statement.
- 5 Accretions to the estate arising out of an asset existing at the date of death should not be disclosed (see section 121A(7)(b) of the Act).

- 6 Property held by the deceased as trustee for which evidence of disclosure is required may be included in the Statement under the heading “Property held in trust by the deceased” but the value of such property must not be included in the value of the estate assets.
- 7 The following is an example of the form in which the statement is to be prepared:

“A”
 STATEMENT OF ASSETS AND LIABILITIES
 of the estate of A.B. late of [address] deceased

	Estimated or known value (see Note 1C above)
A Assets within South Australia	\$
(1) Real estate	
An estate in fee simple in the whole of the land comprised in Certificate of Title Register Book Volume Folio situate at [address of property] Valuer-General’s valuation	500,000.00
<i>or</i>	
An estate in fee simple in one undivided moiety in the whole of the land comprised in Certificate of Title Register Book Volume Folio situate at [address of property] Valuer-General’s valuation for the whole of the real estate \$500,000.00	
Value of deceased’s one undivided moiety	\$250,000.00
(2) Personal estate	
Refund of accommodation bond from Resthaven	
Original accommodation bond	\$380,000.00
Less portion unpaid	200,000.00
Less retention 5 months @ \$318	1,590.00
Less interest	5,219.44
Total to be repaid	173,190.56
Plus prepaid maintenance fees	710.32
Plus balance of personal account	232.95
	\$174,133.83
(3) Furniture and household effects contained in the dwelling house at[address] Executor’s estimated value	8,000.00
(4) Motor Vehicles Sedan (Registration No) Executor’s estimated value	7,000.00
(5) Money in hand	200.00
(6) Money in Bank, Building Society, etc.	
(a) Current account [name of bank] at [e.g. Glenelg] Branch, A/c No	1,800.00

	Estimated or known value (see Note 1C above)
(b) Savings Account [<i>name of bank</i>] at [e.g. Glenelg] Branch, A/c No	
- Balance as at date of death	5,620.11
(c) Building Society [<i>name of building society</i>] at [e.g. Adelaide] Branch, A/c No.	
- Balance as at date of death	8,721.00
(7) Life assurance policy and bonuses [<i>name of company</i>] Policy No.	
Amount due	16,000.00
(8) Shares in Companies	
300 ordinary .50c shares in [<i>name of company</i>]	\$210.00
198 ordinary \$2.00 shares in [<i>name of company</i>]	\$237.68
Market value as per [<i>name of newspaper and date</i>]	447.68
(9) Taxation Credits	
Provisional Tax in respect of financial year ending 30 th June	200.00
(10) Medical Benefits	
Medibank Private - Refund of contributions	20.00
(11) Other property not included above	
(a) contents of Safe Deposit Box No [<i>name of Bank, Trustee Co. etc</i>] at [<i>address</i>]	
2 Gold ingots	\$1,000.00
3 Austrian Ducats	200.00
6 Gold sovereigns	300.00
10 Elizabethan sovereigns	200.00
1 Silver ingot	300.00
	\$2,000.00
Value as per	
(b) 2 oil paintings by [<i>name</i>] on loan to [<i>name of gallery</i>]	\$2,000.00
Value as per	
(c) Stamp collection in the possession of [<i>name and address</i>]	\$1,000.00
Value as per	
	5,000.00

		Estimated or known value (see Note 1C above)
B Assets outside South Australia		
(1)	Shares in companies 1,000 ordinary \$1.00 shares in [name of company] Market value as per [ASX (or name of newspaper or as the case may be) and date]	<u>1,400.00</u>
	Total value of assets	<u>\$\$\$\$\$\$\$\$\$\$</u>
C Liabilities		
1 Secured		
(1)	Memorandum of Mortgage No registered over Certificate of Title Volume Folio Mortgagee [name]	
	- Principal	\$35,000.00
	- Accrued Interest	3,000.00
		38,000.00
2 Unsecured		
(1)	(motor vehicle repairs)	300.00
(2) (credit card)	700.00
(3) (personal loan)	2,200.00
		<u>3,200.00</u>
	Total value of liabilities	<u>\$41,200.00</u>
D Summary of Assets and Liabilities		
	Assets	\$\$\$\$\$\$\$\$\$\$
	Liabilities	<u>41,200.00</u>
	Net Estate disclosed	<u>\$\$\$\$\$\$\$\$\$\$</u>

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 A grant in the estate of A.B. deceased was made by the Court to me the executor as described in the will [or as the case may be] on
2 To the best of my knowledge information and belief the detail below is a true and accurate disclosure of the assets and liabilities of the deceased not previously disclosed [incorrectly described in the previous disclosure] to the Court:

[List the assets and liabilities – giving values - not previously disclosed or previously inaccurately disclosed]

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 List the additional or previously inaccurately disclosed assets and liabilities under the appropriate headings and sub-headings and with the detail and source of value as described in Form 55).
- 2 This disclosure must be made by the person(s) to whom the grant was made.
- 3 In the case of previous inaccurate disclosure the inaccuracy should be described in the list and corrected by an accurate disclosure.

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

In the Estate of A.B. deceased

I certify that the asset(s) described hereunder in the name of the above deceased has [have] been disclosed to the Court in compliance with section 121A of the *Administration and Probate Act 1919*.

Particulars of Asset[s]:

[Identify the asset(s) in the manner disclosed in the Statement of Assets and Liabilities, e.g.:

An estate in fee simple in the whole of the land comprised in Certificate of Title Register Book Volume Folio situate at (*address of property*)]

Valuer-General's valuation \$500,000.00

or

An estate in fee simple in one undivided moiety in the whole of the land comprised in Certificate of Title Register Book Volume Folio situate at [*address of property*]

Valuer-General's valuation \$500,000.00
Deceased's one half share \$250,000.00

Registrar of Probates

Notes

1 Section 44 of the *Administration and Probate Act 1919* provides:

- (1) A person who deals with an asset of the estate of a deceased person that is required to be disclosed under section 121A must satisfy himself by examination of the Registrar's certificate, or on the basis of some other reliable evidence, that the asset has in fact been so disclosed.
- (2) A person who fails to comply with subsection (1) shall be guilty of a summary offence and liable to a penalty not exceeding two thousand dollars.

- (3) This section does not apply to an asset of the estate of a deceased person who died before the day on which section 121A came into operation.
- 2 Certificates should be lodged with the Affidavit of Assets and Liabilities. The details in a certificate should precisely correspond with the disclosure in the statement annexed to that affidavit.
- 3 Certificates should not have backsheets.

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

In the Estate of A.B. deceased

I, Registrar of Probates of the Supreme Court of South Australia hereby certify that on 20... [probate of the last will (and codicil *or* codicils)] [letters of administration with the will of the estate] *or* [letters of administration of the estate] of A.B. late of [*address*] deceased who died at in the said State on 20... , [intestate] was [were] granted by the Supreme Court of the State of South Australia to C.D. [*as in the record of the grant*].

Dated 20...

Registrar of Probates

THIS GENERAL POWER OF ATTORNEY is made pursuant to section 5 of the *Powers of Attorney and Agency Act 1984* this day of 20.. by AB of

- 1 I appoint CD of [or CD of and EF of jointly *or* jointly and severally] to be my attorney[s].
- 2 I authorise my attorney[s], subject to clause 4, to do on my behalf anything that I can lawfully do by an attorney.
3. I authorise my attorney to apply for and obtain a grant of administration of the estate of GH deceased for my use and benefit and until further representation be granted.
- 4 The authority of my attorney[s] is subject to the following conditions, limitations or exclusions:

IN WITNESS etc

Notes

- 1 The power of attorney may also be an enduring power of attorney.
- 2 This form is not mandatory, but any power of attorney must contain words to the effect of clause 3 of this form – see *Re Estate of Dudley* (2013) 115 SASR 328, 334-335.

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

In the Estate of A.B. deceased

Let no grant be sealed in the estate of A.B. late of [address] deceased who died on [or about] 20... at without notice to C.D. [name and address of party by whom or on whose behalf the caveat is entered].

Dated 20...

[Signed]

[To be signed by the caveator’s solicitor or by the caveator if acting in person] whose address for service is:

Solicitors for the said C.D.
[If the caveator is acting in person substitute “in person”].

Telephone No:
Fax No:
Email:
L Code:
P Code:

Notes

- 1 No backsheet is required for a caveat.
- 2 No duplicate caveat need be lodged.

[Note – the form of warning will be supplied in the Registry]

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

In the Estate of A.B. deceased

To

You are hereby warned within 14 days after service hereof upon you, inclusive of the day of such service:

- 1 To enter an appearance either in person or by your solicitor at the Probate Registry of the Court to the caveat entered by you in the estate of late of deceased who died at on [or about] 20... , setting forth what interest you have in the estate of the deceased contrary to that of the party at whose instance this warning is issued; or
- 2 If you have no contrary interest but wish to show cause against the sealing of a grant to such party, to issue and serve a summons for directions returnable before the Registrar in Chambers.

AND TAKE NOTICE that in default of your so doing the Court may proceed to issue a grant of probate or administration in the said estate notwithstanding your caveat.

Dated 20...

Registrar of Probates

Issued at the instance of [*Here set out the name and interest (including the date of the will, if any, under which the interest arises) of the party warning, the name of his or her solicitor and the address for service. If the party warning is acting in person, this must be stated.*]

Telephone No:
Fax No:
Email:
L Code:
P Code:

Notes

- 1 No backsheet is required for a warning to a caveat.
- 2 No duplicate warning need be lodged.

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

In the Estate of A.B. deceased

Caveat dated 20... [or Citation dated 20...]

Full name and address of deceased:

Full name and address of person warning [or citor]:

[Here set out the interest of the person warning, or citor, as shown in warning or citation.]

Full name and address of caveator [or person cited]:

[Here set out the interest of the caveator or person cited stating date of the will (if any) under which such interest arises.]

Enter an appearance for the abovenamed caveator [or person cited] in this matter.

Dated 20...

[Signed] [Solicitor or "in person"]
whose address for service is:

Telephone No:
Fax No:
Email:
L Code:
P Code:

Note

The address for service must comply with rule 59.

**SOUTH AUSTRALIA
IN THE SUPREME COURT
TESTAMENTARY CAUSES JURISDICTION
No ... of 20 ...**

In the Estate of A.B. deceased

ENTER AN APPEARANCE in this matter for *[name of person appearing]* whose residential address is *[set out the residential address whether within or outside of the State]*.

[If the party appearing intends to oppose the application (see rule 58), continue

and who opposes the application on the following grounds:

1. *[set out grounds]*]

Dated 20...

[Signed]

[Solicitor or “in person”]

whose address for service is:

Telephone No:
Fax No:
Email:
L Code:
P Code:

Note

The address for service must comply with rule 59.

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

In the Matter of the Estate of A.B. late of [address] deceased [or as the case may be].

Take notice that I C.D. [name in full] of [address] claiming interest [state relationship or particulars of interest] in the estate of [or under the will of or as the case may be – set out full description] do object to the allowance of commission or other remuneration on the ground[s] that [here set forth with sufficient particularity the grounds of the objection] and hereby require notice of any application for commission by the administrator [or executor or trustee, as the case may be] to be served upon me.

Dated 20...

(Signed)

[Solicitor for the caveator or “in person”]
whose address for service is:

Telephone No:
Fax No:
Email:
L Code:
P Code:

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

In the Estate of A.B. deceased

TO THE RESPONDENT: *[name]* of *[address]*

C.D. *[the appellant's interest in the above estate to be given e.g. the executor as described in the will of the abovenamed deceased or the son and one of the persons entitled to share in the estate of the abovenamed deceased or as the case may be]* hereby appeals to a Judge against the *[judgment, determination, order, direction, decision or requirement as the case may be]* of the Registrar of Probates

Particulars of Judgment

Date of judgment: *[date]*

Judicial Officer appealed from: *[name]*

1. Orders complained of

[set out the text of the relevant orders]

[set out whether the appeal is against the whole or a part of the orders and if a part, identify them]

2. Orders sought

[set out the relief sought in numbered paragraphs]

3. Grounds of appeal

[set out grounds of appeal in numbered paragraphs]

4. Extension of time *[if applicable]*

[set out grounds for extension of time]

Date:

Signed by [*name*)]

Appellant/Appellant's solicitor [*delete whichever is inapplicable*]

whose address for service is:

Telephone No:

Fax No:

Email:

L Code:

P Code:

Note

The grounds set out in the Notice of Appeal are to comply as far as practicable with the requirements for an appeal from a Master to a Judge under the *Supreme Court Civil Rules 2006*.

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

In the Estate of A.B. deceased

Statement delivered by the administrator of the estate of late of
deceased who died on 20... acting under grant of administration dated 20...

Statement of Moneys Received and Paid

Received				Paid			
Date	Received from -	What for -	Amount	Date	Paid to -	What for -	Amount

**Statement of the Nature and Value of Real and Personal Estate in South Australia Not Converted into Money at the
Date of this Account**

Description of Property	Value at Date of Death
[Inventories and proper valuations must be produced]	

Statement of the Nature and Value of Real and Personal Estate Not in South Australia

Description of Property						Value at Date of Death
Statement of Debts and Liabilities Still Unpaid		Names, Addresses, or other Descriptions of all Persons Entitled to any of the Property under Administration				
Name of Creditor	Amount	Name	Address	Occupation or other Description	Date of Birth	Relationship to the Deceased

I, do solemnly and sincerely declare that the above is a true and correct statement and account to the best of my knowledge and belief and I make this declaration in pursuance of the *Administration and Probate Act 1919*.

Declared by the said (and)
 at on 20...

Before me:

Note: If any of the above spaces are found insufficient to contain full particulars the information must be supplied on a separate sheet and duly signed and annexed to this account.

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

In the Estate of A.B. deceased

[This precedent merely illustrates the manner in which a will authorised by the Court under section 7 of the Wills Act 1936 is to be made and executed]

This is the last will and testament of A.B. of [address] authorised by an order dated 20... made under section 7 of the *Wills Act 1936*.

I revoke all former testamentary acts:

- 1 I appoint C.D. of [address] and E.F. [address] to be my executors and trustees (“my trustees”) which includes my trustees for the time being.
- 2 I give devise and bequeath etc

Dated 20...

[L.S. – The seal will be provided by the Registrar]

Registrar of Probates

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

In the Estate of A.B. deceased

[name], solicitor now acts [name practitioner and all details required by rule 29(2)]
now acts in the above estate as solicitor for the [role of party], [name] whose address
for service is/is now [delete whichever is inapplicable]:

[insert address for service]

Date:

.....
Signed by [name]

Solicitor for [role of party]

Name of solicitors:

Telephone No:

Fax No:

Email:

L Code:

P Code:

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

In the Estate of A.B. deceased

Take notice that I C.D. the sole executor [*or the administrator*] of the above estate now act in person and my address for service is [*the address for service must comply with rule 59*] and my contact telephone number during business hours is.....

Dated 20...

Signed:

C.D.
Telephone (business hours)
Email

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

In the Estate of A.B. deceased

JUDICIAL ADVICE BOOK APPLICATION

APPLICATION by CD of (address) pursuant to section 69 of the Administration and Probate Act 1919 and Rule 80 of the Probate Rules 2015 for advice and direction.

[Here set out the advice or direction sought]

FACTS:

[Here set out in numbered paragraphs the facts]

I CD *[address and occupation of deponent]* SWEAR ON OATH/DO TRULY AND SOLEMNLY AFFIRM *[delete whichever is inapplicable]* that this statement of facts is true and complete.

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]

DATE:

Signature of applicant or solicitor for applicant

Notes

- 1 The application must be lodged in duplicate.
- 2 Copies of relevant supporting documents (for example, death certificate, accounts, grant of probate, orders of courts or tribunals, results of searches or inquiries, and valuations) referred to in the application are to be annexed to the application.
3. The reasons that advice and directions are required must be included in the statement of the facts.
4. If an application has previously been made for advice and directions in respect of the same estate, the application must identify that application and a copy is to be annexed