

PART XVI: ADOPTION AND PROBATE MATTERS

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PART XVI

ADOPTION AND PROBATE MATTERS

128. Applications for adoption orders

Notwithstanding the concurrent jurisdiction of the High Court to receive such processes, solicitors are requested to file all applications for adoption orders in the Subordinate Courts. This will serve to achieve the two-fold objective of enabling a more efficient allocation and use of time and resources in the High Court as well as reducing the costs incurred in the adoption process.

129. Applications for grants of probate, letters of administration or resealing of grant

- (1) An application for the grant of probate, letters of administration or resealing of grant made on or after 1 January 2006 under Order 71, Rule 5 of the Rules of Court shall be made by originating summons with supporting affidavit. The supporting affidavit shall exhibit a Statement in Form 172 of Appendix A of the Rules of Court, a certified true copy of the will and all other supporting papers.

Filing of originating summons and Statement

- (2) The following directions apply to the filing of the originating summons and Statement:
- (a) The originating summons and the Statement shall be submitted by entering the relevant information in the appropriate electronic template without attaching the documents in portable document format (PDF).
- (b) The following supporting documents must be electronically filed in the same submission as related documents, but separately from the originating summons:
- (i) in all cases, a certified true copy of the death certificate of the deceased;
 - (ii) where there is a will, a certified true copy of the will;
 - (iii) in the case of a resealing of a grant, a sealed certified true copy of the foreign grant;
 - (iv) in the case of a Muslim estate, a certified true copy of the inheritance certificate; and
 - (v) any other documents in support of the application required under the Probate and Administration Act (Cap. 251, 2000 Rev Ed), the Rules of Court or by the Court.

No Court fees will be charged for the filing of these documents.

- (c) After the originating summons and Statement are filed, the original death certificate, original will, original inheritance certificate and sealed certified true copy of the foreign grant (if any) must be submitted to the Legal Registry of the Supreme Court by 4.30 p.m. on the next working day for verification. Where the original will has been retained in the custody of a foreign Court, then a sealed certified true copy of the will by that foreign Court must be submitted in place of the original. After verification, the original will shall be retained by the Legal Registry in order to comply with Order 71 Rule 47A.

Filing of supporting affidavit

- (3) The following directions apply to the filing of the supporting affidavit:
 - (a) The affidavit is to be filed within 14 days after filing the originating summons according to Order 71, Rule 5.
 - (b) The following documents must be exhibited to the affidavit:
 - (i) in all cases, the Statement, which shall be exhibited first; and
 - (ii) the supporting documents referred to in sub-paragraph 2(b) above.
 - (c) The Statement which is to be exhibited in the affidavit shall be the copy accepted by the Court through the Electronic Filing Service (EFS).
 - (d) The affidavit must include the following averment:

“The deponent avers that the Statement exhibited herein as [insert exhibit number] is the same Statement that was generated by the Electronic Filing Service and no changes have been made. The contents entered into the Electronic Filing Service

which now appear in the Statement, are true and accurate to the best of my knowledge and belief.”

- (e) No Court fees will be imposed for the filing of the supporting affidavit.

Amendment of originating summons or Statement

- (4) Where an applicant seeks to substitute the name of the administrator(s), add in further administrator(s) or to amend the name of the deceased appearing in the originating summons:
 - (a) An application must be made by way of summons to amend the originating summons. The proposed amendments to the originating summons should be annexed to the summons application.
 - (b) Where the application is granted, the party shall file the amended originating summons by entering the amendments into the electronic template within 14 days of the order or within the time directed by the Court.
 - (c) The relevant amendments shall also be correspondingly entered into the electronic template of the Statement by the filing party at the same time that the amended originating summons is filed.
 - (d) A supplementary affidavit verifying the information contained in the amended Statement must be filed containing the averment described in sub-paragraph (3)(d) and stating the reasons for the amendment, within 14 days of the order or within the time directed by the Court.
- (5) Where an applicant seeks to amend the Statement exhibited to the supporting affidavit and corresponding amendments are not required to be made to the originating summons, the amendments shall be entered into the electronic template of the Statement. The applicant shall file his

supplementary affidavit exhibiting the amended Statement within 7 days and stating the reasons for amendment.

- (6) Where the amendments described in sub-paragraphs (4) and (5) are sought following the grant, the applicant must obtain leave of Court to amend the originating summons and/or the Statement. The new grant shall not be extracted until after the filing of the amended originating summons and supplementary affidavits, if any, as well as the entry of the relevant amendments into the electronic template of the Statement.
- (7) The Court may reject any document which does not comply with the above directions.

130. Applications for dispensation of sureties for grants of Letters of Administration

- (1) An application for dispensation of sureties pursuant to section 29(3) of the Probate and Administration Act (Cap. 251, 2000 Rev Ed) shall be made by way of a summons supported by an affidavit sworn or affirmed by all the administrators or co-administrators stating:
 - (a) the efforts made to find sureties and/or why they cannot be found;
 - (b) that the estate duty is either paid, not payable, postponed or has otherwise been cleared;
 - (c) who the beneficiaries are, their shares, ages and whether there are any minors as at the date of the summons;
 - (d) the relationship of the administrators and co-administrators (if any) to the minors;
 - (e) whether the estate has any creditors and the amount of the debt owed to them; and
 - (f) any other information which may be relevant to the application.
- (2) A letter or certificate from the Commissioner of Estate Duties confirming the fact stated in sub-paragraph (1)(b) must be exhibited in the supporting affidavit.
- (3) The consents in writing of all adult beneficiaries to the dispensation of sureties, duly signed in the presence of a solicitor or a person before whom an affidavit can be sworn or affirmed, must be filed.
- (4) Sub-paragraphs (1) to (3) apply equally to applications for dispensation of sureties in cases of re-sealing of Commonwealth grants of Letters of Administration and grants from a Court of probate in a country or territory, being a country or territory declared by the Minister for Law as a

country or territory to which section 47(1) of the Probate and Administration Act applies.

- (5) The supporting affidavit will have to be filed and the necessary consents to dispensation, certificate from the Commissioner of Estate Duty and all other exhibits must be book-marked and hyperlinked in the affidavit in the manner described in paragraph 47 of these Practice Directions.