



ST HELENA

REVISED EDITION OF THE LAWS, 2017

COURTS AND JUSTICE

ADMINISTRATION OF ESTATES ORDINANCE, 1986¹

*Ordinance 7 of 1986
In force 29 September 1986*

Amended by Ordinance 23 of 1987; L.N. 26/2009

*Subsidiary legislation:
ADMINISTRATION OF ESTATES (FORMS) RULES, 1986
*Legal Notice 15 of 1986**

ADMINISTRATION OF ESTATES RULES, 2009
Legal Notice 27 of 2009

ADMINISTRATION OF ESTATES ORDINANCE, 1986

ARRANGEMENT OF SECTIONS

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AN ORDINANCE to make provision for the procedure in respect of the administration of estates.

Short title

1. This Ordinance may be cited as the Administration of Estates Ordinance, 1986.

Interpretation

2. In this Ordinance, unless the context otherwise requires—
“**applicant**” means a person (or persons) applying or wishing to apply for a grant;

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

“**grant**” means a grant of probate or of letters of administration;
 “**judge**” means the Chief Justice or any other judge or acting judge of the Supreme Court;
 “**personal representative**” means a person to whom a grant has been made;
 “**Registrar**” means the Registrar of the Supreme Court.

Jurisdiction

- 3.** The Supreme Court—
- (a) has jurisdiction in all matters concerning the administration of estates;
 - (b) subject to the provisions of this or any other Ordinance and any rules of court, must exercise that jurisdiction according to the law and practice from time to time regulating the exercise of such jurisdiction by the High Court of Justice in England.

Forms

- 4.** *Omitted*

Applications for grants

- 5.** (1) Every application for a grant must be made by affidavit filed with the Registrar.
- (2) Subject to subsection (2A), every grant must be made and signed by a judge.
- (2A) Rules of court may provide for grants to be signed by the Registrar in circumstances, and subject to limitations or conditions, prescribed in those rules.
- (3) A judge may—
- (a) make a grant in the absence of the applicant;
 - (b) require an applicant to enter into a recognisance or bond for the due administration of the estate.

Duties of personal representative

- 6.** (1) A personal representative must ensure that the estate is duly and fully administered according to law.
- (2) The Registrar may call upon any personal representative at any time to attend before the Registrar in chambers and to explain what steps have been taken in respect of the administration of the estate.
- (3) If any personal representative fails to appear before the Registrar when called upon to do so, or if it appears that any personal representative has failed or is failing properly to administer any estate, the Registrar may issue a summons requiring that personal representative to appear before a judge at a time and place mentioned in the summons.
- (4) If a person to whom a summons has been issued under subsection (3) fails to appear before the judge, the judge may issue a warrant for that person to be arrested and brought before the court.

(5) If satisfied that any personal representative has failed or is failing properly to administer an estate, a judge may make any order that is necessary to secure the due administration of the estate; and in particular, may—

- (a) revoke the grant under which the personal representative was appointed;
- (b) order the personal representative to do any act which it is necessary to perform in order to administer the estate;
- (c) order that the title to any property vests in the person lawfully entitled to it; and
- (d) give any incidental directions.

Applications by personal representatives

7. (1) Any personal representative may apply to the Court for directions as to the due administration of the estate.

(2) An application under subsection (1) must be made to the Registrar, who (unless able to deal with the matter by giving informal advice) must fix a date and time when the application will be heard by a judge.

(3) Notice of the date and time of any such hearing must be given to all persons appearing to the Registrar to have any interest in the application

ADMINISTRATION OF ESTATES ORDINANCE, 1986

ADMINISTRATION OF ESTATES (FORMS) RULES

(Section 89(4) of the Constitution)

Citation

- 1. These Rules may be cited as the Administration of Estates (Forms) Rules, 1986.

Forms

2. The forms to be used in connection with the administration of estates, in accordance with section 4 of the Administration of Estates Ordinance, 1986, are those prescribed in the Schedule to these Rules.

SCHEDULE

(Rule 2)

FORM 1

AFFIDAVIT TO LEAD TO A GRANT OF LETTERS OF ADMINISTRATION

IN THE SUPREME COURT OF ST HELENA

IN THE ESTATE OF....., Deceased.

AFFIDAVIT

.....

of(1)

MAKE OATH and say that....., deceased late of....., died on the day of....., 20....., domiciled in St Helena, intestate,(2)

AND that no minority or life interest arises under the intestacy; and that, to the best of my/our(*) belief, there was no land vested in the deceased immediately before his/her death which was settled land and which remains settled land notwithstanding his/her death;

And I/We (*) further make Oath and say that I am /we are (*) the (3) of the deceased; and that I/we (*) will faithfully and punctually administer the estate of the deceased according to law;

AND that the whole of the said estate amounts in value to a sum not exceeding £..... to the best of my/our (*) knowledge, information and belief;

AND I/we (*) hereby apply to this Honourable Court that Letters of Administration in the estate of the deceased be granted to me/us (*).

SWORN byand at..... this.....day of 20.....

Before me,
A Commissioner for Oaths

Notes

- (1) Insert "I" or "We", and full names/addresses of applicant(s).
- (2) Clear of prior claims to a grant.
- (3) Insert relationship justifying a grant to the applicant(s).
- (*) Delete as appropriate

FORM 2

AFFIDAVIT TO LEAD TO A GRANT OF PROBATE

IN THE SUPREME COURT OF ST HELENA

IN THE ESTATE OF....., Deceased.

AFFIDAVIT

..... of.....(1)

MAKE OATH and say that....., deceased, late of....., died on the day of....., 20....., domiciled in St Helena, and that I/we (*) believe the paper writing now produced to and marked by me/us (*) to be the true and original last Will and Testament of the deceased;

AND that no minority or life interest arises in the estate of the deceased; and that, to the best of my/our (*) belief, there was no land vested in the deceased immediately before his/her death which was settled land and which remains settled land notwithstanding his/her death, nor is any land settled by the said Will;

AND I/We (*) further make Oath and say that I am/we are (*) the (2).....of the deceased and that I/We(*) will faithfully and punctually administer the estate of the deceased according to law;

AND that the whole of the said estate amounts in value to a sum not exceeding £..... to the best of my/our (*) knowledge, information and belief;

AND I/We (*) hereby apply to this Honourable Court that Probate of the said Will be granted to me/us (*).

SWORN byand
at
this day of, 20.....

Before me,
A Commissioner for Oaths

Notes

- (1) Insert "I" or "We", and full names/addresses of applicant(s).
- (2) Insert "executors named in the will", or as appropriate to establish a right to a grant.
- (*) Delete as appropriate

FORM 3

**AFFIDAVIT TO LEAD TO A GRANT OF LETTERS OF
ADMINISTRATION
(NO EXECUTOR NAMED)**

IN THE SUPREME COURT OF ST HELENA

IN THE ESTATE OF....., Deceased.

AFFIDAVIT

.....
of.....(1)

MAKE OATH and say that, deceased, late of
....., died on theday of, 20....., domiciled in St Helena, and that I/we (*) believe the paper writing now produced to and marked by me/us (*) to be the true and original last Will and Testament of the deceased, wherein the deceased named no executor now living and able to act;

AND that no minority or life interest arises in the estate of the deceased; and that, to the best of my/our (*) belief, there was no land vested in the deceased immediately before his/her death which was settled land and which remains settled land notwithstanding his/her death, nor is any land settled by the said will;

AND I/We (*) further make Oath and say that I am/we are (*) the of the deceased (2) and that I/we (*) will faithfully and punctually administer the estate of the deceased according to law;

AND that the whole of the said estate amounts in value to a sum not exceeding £..... to the best of my/our (*) knowledge, information and belief;

AND I/We (*) hereby apply to this Honourable Court that Probate of the said Will be granted to me/us (*).

SWORN by
at
thisday of, 20.....
Before me.
A Commissioner for Oaths

NOTES

- (1) Insert "I" or "We", and full names/addresses of applicant(s).
- (2) Insert words as appropriate to establish a right to a grant.
- (*) Delete as appropriate

FORM 4

**GRANT OF LETTERS OF ADMINISTRATION
(NO WILL)**

IN THE SUPREME COURT OF ST HELENA

IN THE ESTATE OF, Deceased.

KNOW ALL MEN, by these presents,
That WHEREAS.....
late of
deceased,
died on the day of, 20....., domiciled in St Helena, Intestate;
NOW THEREFORE Letters of Administration in the Estate of the said deceased are this day
granted to:
..... and
the of the deceased.

Dated this day of, 20..... .

.....
Chief Justice/Judge

FORM 5

**GRANT OF LETTERS OF ADMINISTRATION
(WILL BUT NO EXECUTORS)**

IN THE SUPREME COURT OF ST HELENA

IN THE ESTATE OF, Deceased.

KNOW ALL MEN, by these presents,
that WHEREAS
late of
deceased,

died on the day of, 20....., domiciled in St Helena, having made his/her last Will and Testament, a copy whereof is bound herein, but named therein no executor now living and willing to act;

NOW THEREFORE Letters of Administration in the Estate of the said deceased are this day granted to:

..... and
the of the deceased.

Dated this day of, 20..... .

.....
Chief Justice/Judge

FORM 6

GRANT OF PROBATE

IN THE SUPREME COURT OF ST HELENA

IN THE ESTATE OF, Deceased.

KNOW ALL MEN, by these presents,
that WHEREAS
late of
deceased,

died on the day of, 20....., domiciled in St Helena, having made his/her last Will and Testament, a copy whereof is bound herein;

NOW THEREFORE Probate of the said Will is this day granted unto
..... and.....

Dated this day of, 20.....

.....
Chief Justice/Judge

FORM 7

BOND

(Section 5(3))

I/We
of

hereby (jointly and severally) bind myself/ourselves to Our Sovereign Lady the Queen in the sum of £....., upon the conditions that the said Bond shall become null and void upon my/our faithfully and punctually administering the estate of deceased, according to law.

Dated this day of, 20..... .

ADMINISTRATION OF ESTATES ORDINANCE, 1986

ADMINISTRATION OF ESTATES RULES

(Section 5(2A))

Citation, commencement, and interpretation

1. (1) These Rules may be cited as the Administration of Estates Rules, 2009, and come into force on publication.

(2) In these Rules, “grant” has the same meaning as in the Administration of Estates Ordinance, 1986.

When grants may be signed by Registrar

2. (1) Grants may be made under the signature of the Registrar and the seal of the court, upon any application which is non-contentious and in any other matter in which the Registrar is specifically authorised by a judge to make and sign a grant.

(2) In any case in which the Registrar has any doubt as to the entitlement of the applicant to a grant, or as to the validity of any Will or other testamentary instrument, the Registrar must refer to matter to a judge for directions.
