



ST. HELENA

## CHAPTER 33

### **ADMINISTRATION OF ESTATES ORDINANCE** and Subsidiary Legislation

#### **Non-authoritative Consolidated Text**

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290 2454; email [pa.lawofficers@legalandlands.gov.sh](mailto:pa.lawofficers@legalandlands.gov.sh)]<sup>1</sup>

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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<sup>1</sup> These contact details may change during 2011 or early in 2012. In case of difficulty, email [shgwebsite@sainthelena.gov.sh](mailto:shgwebsite@sainthelena.gov.sh) or telephone (+290) 2470.

**CHAPTER 33****ADMINISTRATION OF ESTATES ORDINANCE**

*(Ordinances 7 of 1986 and 23 of 1987 and Legal Notice 26 of 2009)*

AN ORDINANCE TO MAKE PROVISION FOR THE PROCEDURE IN RESPECT OF THE ADMINISTRATION OF ESTATES.

**Commencement**

*[29 September 1986]*

**Short title**

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

**Interpretation**

2. In this Ordinance, unless the context otherwise requires—

“**Applicant**” means a person (or persons) applying or wishing to apply for a Grant;

“**Grant**” means a grant of Probate or of Letters of Administration;

“**Judge**” means the Chief Justice or any person before whom the Supreme Court may lawfully be held;

“**Personal Representative**” means a person to whom a Grant has been made;

“**Registrar**” means the Registrar of the Supreme Court.

**Jurisdiction**

- 3.<sup>2</sup> The Supreme Court shall continue to have Jurisdiction in all matters concerning the Administration of Estates, and, subject to the provisions of this or any other Ordinance and any Rules of Court, shall exercise the same according to the law and practice from time to time regulating the exercise of such jurisdiction in the High Court of Justice in England.

**Forms**

- 4<sup>3</sup>. ...

**Applications for Grants**

5. (1) Every application for a Grant shall be made by Affidavit filed with the Registrar.

(2)<sup>4</sup> Every Grant shall be made and signed by a Judge, who may make the Grant in the absence of the Applicant:

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<sup>2</sup> Section 3 amended by Ord. 23 of 1987

<sup>3</sup> Section 4 repealed by LN 26 of 2009. *Provided that such repeal shall not affect the validity of the Administration of Estates (Forms) Rules but such Rules shall have effect as if made by the Chief Justice as Rules of Court.*

<sup>4</sup> Section 5(2) amended by LN 26 of 2009

Provided that Rules of Court may provide for grants to be signed by the Registrar in such circumstances, and subject to such limitations or conditions, as may be prescribed in such Rules.

(3) A Judge may require an Applicant to enter into a recognizance or bond for the due administration of the estate.

### **Duties of Personal Representative**

6. (1) For the avoidance of doubt, it is declared that it is the duty of every Personal Representative to ensure that the estate is duly and fully administered according to law.

(2) The Registrar may call upon any Personal Representative at any time and from time to 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 any person to whom a summons has been issued under subsection (3) shall fail to appear before the Judge, he 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 such Orders as may be 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 shall vest in the person lawfully entitled thereto; and
- (d) make any incidental directions.

### **Applications by Personal Representatives**

7. (1) Any Personal Representative may, from time to time, apply to the Court for directions as to the due administration of any estate.

(2) Any application under subsection (1) shall be made to the Registrar, who (unless he is able to deal with the matter by giving informal advice) shall 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 shall be given to all persons appearing to the Registrar to have any interest therein.

**ADMINISTRATION OF ESTATES (FORMS) RULES – SECTION 4***(Legal Notice 15/1986)***Short title**

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

**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, shall be those prescribed in the Schedule to these rules.
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**SCHEDULE**

## 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**<sup>(1)</sup>

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

AND that no minority or life interest arises under the intestacy; and that, to the best of my/our<sup>(\*)</sup> 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<sup>(\*)</sup> further make Oath and say that I am /we are<sup>(\*)</sup> the<sup>(3)</sup>

of the deceased; and that I/we<sup>(\*)</sup> 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<sup>(\*)</sup> knowledge, information and belief;

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

SWORN by .....

at.....

this.....day of ..... 20.....

Before me,

A Commissioner for Oaths

**NOTES**

<sup>(1)</sup> Insert "I" or "We", and full names/addresses of applicant(s).

<sup>(2)</sup> Clear off prior claims to a grant.

<sup>(3)</sup> Insert relationship justifying a grant to the applicant(s).

<sup>(\*)</sup> 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**

(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<sup>(\*)</sup> 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<sup>(\*)</sup> 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<sup>(\*)</sup> will further make Oath and say that I am/we are<sup>(\*)</sup> the<sup>(2)</sup>

and that I/We<sup>(\*)</sup> 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<sup>(\*)</sup> knowledge, information and belief;

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

SWORN by .....

at .....

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

Before me,

A Commissioner for Oaths

**NOTES**

<sup>(1)</sup> Insert "I" or "We", and full names/addresses of applicant(s).

<sup>(2)</sup> Insert "executors named in the will", or as appropriate to establish a right to a  
grant.

<sup>(\*)</sup> Delete as appropriate

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## Form 3

**AFFIDAVIT TO LEAD TO A GRANT OF LETTERS OF  
ADMINISTRATION (WITH WILL)**

IN THE SUPREME COURT OF ST. HELENA

IN THE ESTATE ....., Deceased.

**AFFIDAVIT**

(1)

MAKE OATH and say that ....., deceased,  
late of ....., died  
on the .....day of ....., 20....., domiciled in St. Helena,  
and that I/we<sup>(\*)</sup> believe the paper writing now produce to and marked by me/us<sup>(\*)</sup> 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<sup>(\*)</sup> 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<sup>(\*)</sup> further make Oath and say that I am/we are<sup>(\*)</sup> the<sup>(2)</sup>

and that I/we<sup>(\*)</sup> 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<sup>(\*)</sup> knowledge, information and belief;

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

SWORN by .....

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.

<sup>(\*)</sup> Delete as appropriate

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## Form 4

## GRANT OF LETTERS OF ADMINISTRATION



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 (WITH 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,  
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

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## Form 7

**BOND**

I/We .....

.....

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..... .

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**ADMINISTRATION OF ESTATES RULES – Section 5(2)**

*(Legal Notice 27 of 2009)*

**Citation, commencement, and interpretation**

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

(2) In these Rules, ‘**Grant**’ has the same meaning as in the Administration of Estates Ordinance, Cap 33.

**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, he shall refer to matter to a judge for directions.

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