

ANTIGUA AND BARBUDA



**EASTERN CARIBBEAN SUPREME COURT (NON-CONTENTIOUS PROBATE AND
ADMINISTRATION OF ESTATES) RULES, 2017**

STATUTORY INSTRUMENT

2017, No. 69

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ANTIGUA AND BARBUDA**EASTERN CARIBBEAN SUPREME COURT (NON-CONTENTIOUS PROBATE AND ADMINISTRATION OF ESTATES) RULES, 2017****ARRANGEMENT OF RULES****RULES**

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ANTIGUA AND BARBUDA**EASTERN CARIBBEAN SUPREME COURT (NON-CONTENTIOUS PROBATE AND ADMINISTRATION OF ESTATES) RULES, 2017****STATUTORY INSTRUMENTS****2017, No. 69**

In exercise of the powers conferred pursuant to section 17 of the Supreme Court Order 1967, the Chief Justice and two other Judges of the Supreme Court make these Rules—

1. Citation and Commencement

(1) These Rules may be cited as the Eastern Caribbean Supreme Court (Non-Contentious Probate and Administration of Estates) Rules, 2017 and shall come into force on 1st October 2017.

(2) Subject in any particular case to any direction given by a judge or registrar, these Rules shall apply to any proceedings which are pending on the date on which they came into force as well as to any proceedings commenced on or after that date.

2. Definitions

In these Rules, unless the context otherwise requires—

“**administration**” means a grant of letters of administration with or without will annexed;

“**attorney-at-law**” means solicitor or barrister called to the bar of a Member State;

“**authorised officer**” means any officer of the registry who is for the time being authorised to administer any oath or take affidavit required for any purpose connected with his or her duties and includes where the context so admits the resealing of such grants and, in the case of saint Lucia, shall include an *ex officio* commissioner as provided for by [section 85] of the supreme Court [Order] [Act], [];

“**citor**” means a person who issues a citation;

“**citee**” means a person who receives a citation;

“**court**” means the Eastern Caribbean Supreme Court;

“**CPR 2000**” means the Eastern Caribbean Supreme Court Civil Procedure Rules 2000;

“**grant**” means a grant of probate or letters of administration with or without will annexed;

“**gross value**” means the value, or valuation range in the case of the Territory of the Virgin Islands, of the state without deduction for debts, encumbrances, funeral expenses or death duties;

“**judge**” means a judge of the eastern Caribbean Supreme Court;

“**Member State**” means—

- (a) Antigua and Barbuda;
- (b) Anguilla;
- (c) Commonwealth of Dominica;
- (a) Grenada
- (e) Montserrat;
- (j) Saint Christopher and Nevis;
- (g) Saint Lucia;
- (h) Saint Vincent and the Grenadines; or
- (i) Territory of the Virgin Islands;

“**registry**” means the registry of the Eastern Caribbean Supreme Court of the respective Member State;

“**standard will**” means a will other than a holograph, privileged, notarial or statutory will and in the case of Saint Lucia, a standard will shall include an english will as defined under the Civil Code of Saint Lucia, Chap 4:01, Article 789 of the Revised Laws of Saint Lucia;

“**Trust Corporation**” shall have the meaning assigned under the Trust Corporation (Probate and Administration) Act or similar enactment in a Member State; and

“**value**” means the market value of the property comprising the estate.

3. Application of the CPR 2000

Subject to the provisions of these Rules and to any enactment, the CPR 2000 shall apply to non-contentious probate matters, except that nothing in Part 3 of the CPR 2000 shall prevent time from running in the Long Vacation.

4. Forms

A form referred to by number means a form so numbered in *Schedule 1* with such variations as in a particular case the court may direct or approve.

5. To whom and where applications are to be made

An application for a grant of probate or letters of administration shall be made to the registrar of the court and shall be filed at the registry where all caveats, warnings, citations, acknowledgements of service and notices of application under these Rules shall be filed.

6. Who can make an application

(1) An application for a grant of probate or letters of administration may be made—

- (a) Through an attorney-at-law;
- (b) by the propounder of a will; or
- (c) by a proposed administrator in person.

(2) An application or a notice of application for a grant of probate or letters of administration shall—

- (a) bear the signature of the attorney-at-law, propounder or proposed administrator in person; and
- (b) contain an address for service for the attorney-at-law, propounder or administrator in person, including an email address and contact numbers.

7. Hearing of applications

(1) An application under these Rules shall be made in the first instance to the court in Form P1 or Form P2, as the case may be.

(2) Except where any enactment, rule or practice direction provides otherwise, the functions of the court may be exercised in accordance with these Rules and any direction made by—

- (a) the Chief Justice;
- (b) a single Judge;
- (c) a Master; or
- (a) the Registrar.

8. How to apply for a grant of probate

(1) Except in the case of a notarial will in Saint Lucia which is subject to rule 11, an executor who applies for a grant of probate shall file at the registry—

- (a) an application for a grant of probate in Form P1;
- (b) a certificate of search confirming that —
 - (i) no other grant of probate has been issued;
 - (ii) no other application for a grant of probate has been made; and
 - (iii) no caveats have been filed;
- (c) an oath in Form P3;
- (a) the will marked in accordance with rule 18(1);
- (e) a certified copy of the death certificate or in the absence of the death certificate, an affidavit together with the burial certificate or other relevant document to the satisfaction of the court;
- (j) an affidavit of due execution of the will in the form and manner prescribed by rule 17(1), or where the circumstances so require an affidavit in the form prescribed by rule 17(2) to (6), as the case may be;
- (g) a declaration and account of the estate of the deceased in Form P6, and in the case of the Territory of the Virgin Islands, Form P6A;

- (h) the appropriate affidavit under rule 22, if required; and
- (i) a certificate from the Commissioner of Inland revenue that the duty has been paid or a letter stating that satisfactory arrangements have been made for the payment of duty, where any enactment in Member State requires payment of stamp duty, estate duty or succession duty.

(2) Where, on an application for a grant of probate, power to apply for a like grant is to be reserved to such other of the executors as have not renounced probate, the oath shall state that notice of the application has been given to the executors to whom power is to be reserved.

(3) Where an application is made for a grant of probate by one or more, but not all executors named in a will, and power is not reserved to the other executors, the applicant must account for the absence of the other named executors by exhibiting in his or her oath—

- (a) evidence of the death of the executor;
- (b) a certified copy of renunciation made by that executor; and
- (c) the citation to the executor, accompanied by the affidavit of service of the citation.

9. How to apply for letters of administration with will annexed

(1) Except in the case of a notarial will in Saint Lucia which is governed by the Civil Code, Chap 4:01, Article 794 of the Revised Laws of Saint Lucia, and subject to rule 11, a person who seeks a grant of letters of administration with will annexed, shall file at the registry—

- (a) an application for a grant of letters of administration with will annexed in Form P1 except in the case of St. Lucia which shall be done in accordance with the Code of Civil Procedure, Ch. 243, Part 6th, Article 1015, St. Lucia Revised Ordinances 1957;
- (b) certificate of search confirming that—
 - (i) no other grant has been issued;
 - (ii) no other application for a grant has been made; and
 - (iii) no caveats have been filed;
- (c) an oath in Form P4;

- (a) the will marked in accordance with rule 18 (1);
 - (e) a certified copy of the death certificate or in the absence of the death certificate, an affidavit together with the burial certificate or other relevant document to the satisfaction of the court;
 - (j) an affidavit of due execution of the will of the deceased in the form and manner prescribed by rule 17(1), or where the circumstances so require an affidavit in the form prescribed by rule 17 (2) to (6), as appropriate;
 - (g) a declaration and account of the estate of the deceased in Form P6 and in the case of the Territory of the Virgin Islands Form P6A;
 - (h) the appropriate affidavit under rule 22, if required;
 - (i) a certificate from the Commissioner of Inland Revenue that the duty has been paid or a letter stating that satisfactory arrangements have been made for the payment of duty, where any enactment in the Member State requires payment of stamp duty, estate duty or succession duty; and
 - (j) a certified copy of the birth certificate and marriage certificate of the applicant.
- (2) A person applying for a grant of letters of administration with will annexed—
- (a) shall in his or her oath, account for all persons entitled to a grant in priority to him or her, and file with the application, the consent of all those persons so entitled, unless good reasons are shown for dispensing with such consent; and
 - (b) need not obtain the consent of any person in the same degree of priority, subject to rule 25.

10. Order of priority for grant where deceased left a will

The person or persons entitled to apply for a grant, where a deceased left a will, is to be determined in accordance with the following order of priority—

- (a) the executor;
- (b) any residuary devisee or legatee holding in trust for any person;
- (c) any other residuary or legatee;

- (a) any devisee or legatee holding in trust for any other person;
- (e) any devisee or legatee;
- (j) any person entitled to share in the undisposed residuary estate; and
- (g) such other person as the court may direct.

11. How to apply for a grant of probate of a notarial will in Saint Lucia

A person who seeks a grant of probate or letters of administration with will annexed of a notarial will in Saint Lucia, shall comply with the requirements in respect of an application for a grant of probate under rule 8 or a grant of letters of administration with will annexed under rule 9 except that the applicant—

- (a) is not required to—
 - (i) mark the will;
 - (ii) file an affidavit of due execution; and
- (b) is required to file a certified copy of the notarial will with the application.

12. How to apply for letters of administration in case of a minority or a life interest where person dies intestate

Subject to rule 16 where a person dies intestate and the estate gives rise to a minority or a life interest, a grant of letters of administration shall not be issued to less than two administrators, unless the court permits.

13. How to apply for a grant of letters of administration

(1) A person who seeks a grant of letters of administration must file at the registry—

- (a) an application for a grant of letters of administration in Form P1;
- (b) a certificate of search confirming that—
 - (i) no other grant has been issued;

- (ii) no other application for a grant has been made; or
 - (iii) no caveats have been filed;
 - (c) an oath in Form P5;
 - (a) a certified copy of the death certificate or in the absence of the death certificate, an affidavit together with the burial certificate or other relevant document to the satisfaction of the court for non-production thereof;
 - (e) a declaration and account of the estate of the deceased in Form P6 and in the case of the Territory of the Virgin Islands Form P6A;
 - (j) if required, the appropriate affidavit or affidavits under rule 22;
 - (g) a certificate from the Commissioner of Inland Revenue that the duty has been paid or a letter stating that satisfactory arrangements have been made for the payment of duty, where any enactment in the Member State requires payment of stamp duty, estate duty or succession duty; and
 - (h) a certified copy of the birth certificate and marriage certificate of the applicant.
- (2) A person applying for a grant of letters of administration—
- (a) must set out his or her entitlement to the grant;
 - (b) must in his or her oath account for all persons entitled to a grant in priority to him or her;
 - (c) must file with the application the consent of all persons so entitled, unless a good reason is shown for dispensing with such consent; and
 - (a) need not obtain the consent of any person in the same degree of priority, subject to rule 25.

14. Order of priority in case of intestacy

(1) With the exception of Saint Lucia, where a person dies intestate, the right to a grant of letters of administration is to be determined in accordance with the following order of priority—

- (a) the surviving spouse of the deceased;

- (b) the children of the deceased, and the issue of any child who died before the deceased;
- (c) the father and mother of the deceased;
- (a) brothers and sisters of the whole blood and the issue of any deceased brother or sister of the whole blood who died before the deceased;
- (e) brothers and sisters of the half-blood and the issue of any deceased brother or sister of the half-blood who died before the deceased;
- (j) grandparents;
- (g) uncles and aunts of the whole blood and the issue of any deceased uncle or aunt of the whole blood who died before the deceased; and
- (h) uncles and aunts of the half blood and the issue of any deceased uncle or aunt of the half-blood who died before the deceased.

(2) With the exception of Saint Lucia, in default of any person having a beneficial interest in the estate, a person shall be entitled to a grant of letters of administration if he claims *bona vacantia* on behalf of the Crown.

(3) In the case of Saint Lucia, a grant for letters of administration shall be made under the Code of Civil Procedure Ch. 243, Article 1016, St Lucia Revised Ordinances 1957, to the persons entitled in the following order of priority—

- (a) to the persons within the heritable degree in order of their right to succeed the deceased;
- (b) failing such persons in paragraph (a), to the surviving wife or husband of the deceased, as the case may be; or
- (c) failing such persons in paragraph (b) to the person nominated by the Crown to apply for the grant of letters of administration.

(4) If none of the persons entitled to a grant under this rule are capable of, or prepared to apply for the grant, it may be made to—

- (a) a creditor or person interested in the succession of the deceased, except in the case of Saint Lucia which shall be in accordance with the Civil Code, Chap 4:01, Article 589 of the Revised Laws of Saint Lucia;

- (b) a person who has no immediate beneficial interest in the estate, but who may have such an interest in the event of an addition to the estate; or
- (c) such other person as the court may direct.

15. Advertisement of application for a grant of probate or letters of administration

An application for a grant of probate or letters of administration shall be advertised in Form P7 after the application has been filed, and shall be advertised once a week for not less than two weeks in a newspaper of general circulation in the relevant Member State.

16. How to apply for small estate grants

Where a person dies possessed of, or entitled to an estate, the value of which does not exceed the sum specified in the respective Administration of Small Estates Act of the relevant Member State, and an application has been made for a grant of probate or letters of administration by the person or persons entitled in accordance with the order of priority provided for under rule 10 or 14, as the case may be, the following provisions shall apply—

- (a) on receipt of the application, the court shall make such inquiries into the facts stated as it thinks fit;
- (b) the papers required in respect of an application for a grant of probate or letters of administration, as the case may be,

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Antigua & Barbuda	- Administration of Small Estates Act Cap. 8
The Virgin Islands	- Administration of Small Estates Act Cap. 4
Dominica	- Administration of Small Estates act Ch. 9:06
Grenada	- Probate Act Cap. 255.
Montserrat	- Administration of Small Estates Act Cap. 4
St Christopher & Nevis	- Administration of Small Estates Act Cap. 4
St Lucia	- Administration of Small Successions Ord. Cap. 20 and Administration of Small Successions (Amendment) Act 5/1981; 5/2004
St. Vincent & the Grenadines	- Administration of Small Estates Act Cap. 379

Shall be filed in accordance with rule 8, 10 or 13 as the case may be, but the applicant is not required—

- (i) to pay any filing fee; and
 - (ii) to file a declaration and account of the estate, but the applicant shall set out the information required in the declaration and account of the estate in his or her oath; and
- (c) unless the court otherwise directs, there shall be no advertisement of the application in accordance with rule 15, but the court shall cause notice of the application to be screened in a conspicuous place in the registry for a period of two weeks before the grant issues.

17. Evidence as to due execution of will

Evidence on affidavit as to due execution of the following types of will shall be given to the court—

(1) *Standard Wills or in the case of Saint Lucia English Wills*

Where the will of the deceased is a will other than to which paragraphs (3), (4), (5) or (6) apply—

- (a) an affidavit of due execution shall be filed by—
 - (i) one or more of the attesting witnesses in Form P8;
 - (ii) any other person who was present when the will was made if no attesting witness is conveniently available; or
- (b) if no evidence can be obtained under paragraph (a), the court may accept—
 - (i) evidence on affidavit in Form P9, showing that the will is in the handwriting of the deceased;
 - (ii) evidence on affidavit of any matter which may raise a presumption in favour of due execution of the will;

and may require that notice of the application be given to any person who may be prejudiced by the will.

(2) Wills *cf* blind or illiterate testator

Before admitting to proof of a will which appears to have been signed by a blind or illiterate testator or by another person by direction of the testator, or which for any other reason raises doubt as to the testator having had knowledge of the contents of the will at the time of its execution, the court shall satisfy itself by evidence on affidavit that the testator had such knowledge.

(3) Wills *cf* soldiers and sailors

Where the deceased died domiciled in any Member State, except Grenada, and it appears to the court that there is *prima facie* evidence that the will is one to which the laws governing the wills of soldiers and sailors of the respective Member State applies, the will may be admitted to proof without an affidavit of due execution if—

(a) the court is satisfied on evidence, that—

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Antigua & Barbuda	- Wills Act Cap 473, s.7 and Wills (Soldiers and Sailors) Act Cap. 88,s.5
Territory of the Virgin Islands	- Wills Act Cap. 81, s.11
Dominica	- Wills Act Ch. 9:01, s.12
Montserrat	- Wills Act Cap 84, s. 11 and Wills (Soldiers and Sailors) Act Ch. 85, s.5
St Christopher & Nevis	- Wills Act Cap. 84, s.11
St Lucia	- Civil Code of Saint Lucia, Chap 4:01, Art 787 of the Revised Laws of Saint Lucia
St Vincent & The Grenadines	- Wills Act Cap. 384, s.13

- (i) it was signed by the testator;
 - (ii) if unsigned, it is in the testator's handwriting; or
- (*b*) the will is oral, the laws governing the wills of sailors and soldiers in the respective Member State are complied with.

(4) Holograph Wills

Where the deceased died domiciled in Saint Lucia and it appears to the court that there is *prima facie* evidence that a will is one which the Civil Code, Chap 4:01, Article 788 of the Revised Laws of Saint Lucia applies, the will may be admitted to proof if the court is satisfied by evidence on affidavit, by a person or persons who were well acquainted with the character of the deceased's handwriting and that it was signed by the testator.

(5) Will made on behalf of a mental patient

Where a will was authorised to be made by the court on behalf of a mental patient in exercise of its special powers under the Mental Health Act, Ch. 228, section 22(1)(*ε*) of Saint Vincent and the Grenadines and The Mental Health Act, Cap. 131 of the Territory of the Virgin Islands, rule 17(1) applies with such modifications and adaptations as may be necessary for the purpose of indicating that—

- (*a*) the will was made under the direction of the court; and
- (*b*) the provisions of the mental health laws of Saint Vincent and The Grenadines and the Territory of the Virgin Islands and the court's directions were duly complied with.

(6) Notarial Wills

Where the deceased died domiciled in Saint Lucia, and it appears to the court that there is *prima facie* evidence that a will is a notarial will, the will may be admitted to proof without an affidavit of due execution, if the court is satisfied that the will is one which complies with the formal requirements in respect of such wills.

18. Marketing and exhibiting of wills

(1) Subject to paragraph (2), every will in respect of which an application for a grant of probate or letters of administration is made, other than a notarial will under rule 11 shall be—

- (*a*) marked by the signatures of the applicant and the person before whom the executor's oath is sworn in Form P10; and

(b) exhibited to any affidavit required as to the validity, terms, conditions or date of execution of the will.

(2) The court may allow a copy of a will to be marked or exhibited instead of the original will.

19. Rectification of wills

(1) Except in the case of Saint Lucia, an application for an order that a will be rectified may be made to the court, unless a probate action has been commenced.

(2) The application shall be supported by an affidavit, setting out the grounds of the application, together with such evidence as can be adduced as to the testator's intentions and as to which of the following matters is in issue—

(a) in what respects the testator's intentions were not understood; or

(b) the nature of any alleged clerical error.

(3) Unless otherwise directed by the court, notice of the application shall be given to every person having an interest under the will whose interest might be prejudiced by the rectification applied for and any comments in writing by any person shall be exhibited to the affidavit in support of the application.

(4) If the court is satisfied that, subject to any direction to the contrary, notice has been given to every person mentioned in paragraph (3) and that the application is unopposed it may order that the will be rectified accordingly.

20. Engrossments of wills

(1) Where the court considers that in any particular case, a copy of the original will would not be satisfactory for purposes of record, it may require an engrossment suitable for reproduction to be lodged.

(2) Where a will contains alterations which are not to be admitted to proof, an engrossment of the will in the form in which it is to be proved shall be filed.

(3) An engrossment filed in accordance with this rule must reproduce the punctuation, spacing and division into paragraphs of the will, and must follow continuously from page to page on both sides of the paper.

21. Will in custody of foreign court or official

Where a will is not available because it is retained in the custody of a foreign court or official, a duly authenticated copy of the will may be admitted to proof.

22. Affidavits

The following affidavits shall be filed with an application for a grant of probate or letters of administration, as appropriate—

(1) Affidavit of alterations

Where a will or codicil contains obliterations, interlineations or other alterations, the applicant shall file evidence showing that the alterations were present when the will or codicil was executed, unless—

- (a) the alterations are trivial and of no practical importance;
- (b) the alterations are evidenced by the signatures of the attesting witnesses; or
- (c) the alterations have been confirmed by the re-execution of the will or by the execution of a codicil.

The court shall give directions as to the form in which the will or codicil is to be proved.

(2) Affidavit of plight and condition and finding of will

Where a will or codicil contains or has any appearance of an attempted revocation it must be accounted for by evidence on affidavit in Form P11 to the satisfaction of the court to displace any presumption of revocation.

(3) Affidavit of incorporation of documents

Where a will or codicil contains any reference to another document in such terms as suggest that the document ought to be incorporated into the will, the court shall require such document to be produced and may call for such evidence by affidavit with regard to the importation of the document as seems fit.

(4) Affidavit of date of execution of will

Where a will or cordicil is undated or where there is doubt as to the date on which a will or codicil was executed, the court shall require evidence on affidavit to be supplied as it thinks necessary to establish the date.

(5) Affidavit of alias

Where a grant is sought in a name in addition to the true name of the deceased, the applicant shall give evidence on affidavit—

- (a) stating the true name of the deceased;
- (b) defining any part of the estate which was held in a name other than the deceased's true name; and
- (c) stating any other reason for the inclusion of the other name in the grant.

(6) Affidavit of delay

Where an application for a grant is made for the first time more than 3 years after the death of the deceased, the applicant shall file an affidavit explaining the delay.

(7) Affidavit of foreign law

Where evidence of foreign law is required on an application for a grant, the court may accept an affidavit from an attorney in the country concerned, whom, having regard to the particulars of the deponent's knowledge or experience given in the affidavit, the court regards as suitably qualified to give expert evidence of the law in question.

23. Renunciation of probate and administration

(1) An executor who wishes to renounce his or her right to apply for a grant of probate shall do so in Form P12.

(2) An executor who renounces his or her right to apply for a grant of probate does not thereby renounce his or her right to apply for a grant of letters of administration unless he or she expressly renounces that right.

(3) A person entitled to apply for a grant of letters of administration and who wishes to renounce his or her right shall do so in Form P13 or Form P14, as the case may be.

(4) A person who has renounced his or her right to apply for letters of administration in one capacity may not obtain a grant of letters of administration in another capacity without the permission of the court.

(5) Where probate or administration has been renounced, a person who subsequently applies for a grant shall exhibit to his or her oath a certified copy of the renunciation.

(6) The right of a minor executor of probate on attaining the age of 18 years may not be renounced by any person on his or her behalf.

24. Retraction of renunciation of probate and administration

(1) Subject to paragraph (2), a renunciation may be retracted with the permission of the court.

(2) The Court may not give permission to retract a renunciation after a grant of probate or letters of administration has been made to some other person unless exceptional circumstances are shown.

25. Notices and consents

(1) Subject to paragraph (2), a grant of letters of administration may be made to a person entitled to it without the consent of any other person entitled in the same degree.

(2) Where, a person equally entitled to a grant of letters of administration, has not consented to the grant being made to the person equally entitled thereto, the applicant for the grant shall give not less than 14 days notice to each other person entitled in the same degree before applying for the grant unless the court dispenses with the need for such notice.

(3) The notice required to be given by the applicant under paragraph (2) shall be in Form P15.

(4) In making an application for a grant of letters of administration—

- (a) the court shall require the applicant to file an affidavit of service of the notice or notices under paragraph (2);
- (b) any person challenging the right of a person in the same degree to a grant of letters of administration may apply to the court for directions or file a caveat, except in the case of Saint Lucia where the Code of Civil Procedure, Ch. 243, Article 1026, St Lucia revised Ordinances 1957 will apply; and
- (c) no grant of letters of administration may be issued until the application referred to in paragraph (b) is finally disposed of.

(5) Where, on application for a grant of probate, power to apply for a like grant is reserved to such other executors who have not renounced their right to apply for a grant of probate—

- (a) the proving executor shall give 14 days notice in writing to the other executors who have not renounced their right to a grant of probate applying for the grant;

- (b) the court may dispense with giving notice if it is satisfied that giving the notice would—
 - (i) be impracticable; or
 - (ii) cause unreasonable delay or expense.

(6) Where the Crown is, or may be beneficially interested in the estate of a deceased, notice of an intended application for a grant shall be given by the applicant to the person authorised to apply for a grant on behalf of the Crown, and no grant may be made until 28 days after the notice has been given.

26. Joinder of administrator

(1) A person entitled in priority to a grant of letters of administration may, without leave, apply for a grant with a person entitled in a lower degree, provided that there is no other person entitled in a higher degree to the person to be joined, unless every such person has renounced his or her right or gives consent or has consented.

(2) Where paragraph (1) does not apply, an application to join another person shall be made to the court.

(3) An application under paragraph (2) may be made without notice but must be supported by evidence on affidavit and the consent of the person proposed to be joined as administrator.

27. Grants to a corporation

Except in the case of Saint Lucia, where an application is made for a grant of probate or letters of administration by a corporation, including a Trust Corporation other than the Public Trustee, the officer appointed by the corporation for this purpose shall—

- (a) in every case file in the registry a sealed copy of the resolution appointing him or her; and
- (b) depose, in the oath to lead to the grant, that the charter or memorandum of association of the corporation empowers the corporation to make such application.

28. Grants where deceased died domiciled outside the jurisdiction of the relevant Member State

(1) This rule applies where the deceased died domiciled outside of the jurisdiction of the relevant Member State except Saint Lucia where the Civil Code Act, Chap 4:01, Article 545 of the Revised Laws of Saint Lucia applies.

(2) Where the deceased left a will in the English Language which is admissible to proof, a grant of probate may be made to the person named as executor therein.

(3) Where the will describes the duties of a named person, in terms sufficient to constitute him or her executor, according to the tenor of the will, a grant of probate may be made to that person.

(4) Where the whole or substantially the whole of the estate in the relevant Member State consists of immovable property, a grant of probate may be made to the person who would have been entitled to a grant had the deceased died domiciled in that Member State.

(5) In any other case, the court may order that the grant be issued to any of the following persons—

- (a) to the person entrusted with or entitled to the administration of the estate by the court having jurisdiction at the place where the deceased died domiciled;
- (b) where there is no person so entrusted, to the person beneficially entitled to the estate by the law of the place where the deceased died domiciled or if there is more than one person so entitled, to such of them as the court may direct, or
- (c) if in the opinion of the court the circumstances so require, to such person as the court may direct.

29. How to apply for a grant in respect of the estate of a person who died domiciled outside the jurisdiction of a Member State

(1) A person who is authorised to apply for a grant of probate or letters of administration in respect of the estate of a person who died domiciled outside the jurisdiction of the relevant Member State shall file at the registry—

- (a) an oath including the following recitals—
 - (i) the authority of the applicant to obtain the grant, whether by order of the court or otherwise;
 - (ii) the domicile of the deceased; and
 - (iii) the gross value of the estate to be covered by the grant;
- (b) the grant decree or order of authority or official copy under the seal of the court of issue;

- (c) an official copy of the will of the deceased, if any;
- (a) the certified copy of the power of attorney where the applicant for the grant is the attorney of the person so entitled;
- (e) the affidavit as to foreign law made under rule 22(7);
- (j) where the will is required to be proved, a filed copy of the affidavit of the facts relied upon under rule 30(3)(g)(h); and
- (g) where the grant or authority is in a foreign language, a filed copy of a notarised translation.

30. How to apply for resealing of grants

(1) An application for the resealing of a grant of probate or letters of administration made under the resealing laws in force in the relevant Member State may be made by—

- (a) the person to whom the grant was made; or
- (b) by the attorney of the person in paragraph (a) and shall be—
 - (i) authorised by a duly notarised and authenticated power of attorney first recorded in the registry; and
 - (ii) the power of attorney shall expressly contain authority to make such application.

(2) The applicant shall advertise the application in Form P16 in a newspaper circulating in the relevant Member State announcing his or her intention to reseal, and this advertisement must appear at least 7 days prior to the filing of the application for resealing.

- (3) An application for resealing is made by filing at the registry—
- (a) an application on oath in Form P17;
 - (b) the original grant, or a duplicate certified copy thereof under the seal of the court of issue;
 - (c) an official copy of any will to which it relates;
 - (a) a copy of the advertisement under paragraph (2);
 - (e) where the application to reseal a grant is made more than 3 years after the death of the deceased, an affidavit explaining the delay;
 - (j) a declaration and account of the estate of the deceased in Form P6 and in the case the Territory of the Virgin Islands Form P6A, limited to the property within the Member State in which the application for resealing is made;
 - (g) an affidavit of facts setting out the place of execution of the will; and
 - (h) where required by an enactment in the respective Member State—
 - (i) the domicile of the testator at the time of execution of the will or at his or her death as appropriate; and
 - (ii) the habitual residence of the testator at the time of his or her death.
- (4) An application to reseal a grant of letters of administration shall be made in accordance with the provisions of these rules.
- (5) Special limited or temporary grants are not to be resealed without an order of the court.
- (6) Notice of the resealing of a grant shall be sent by the registrar to the court which issued the grant and the prescribed fee shall be paid by the applicant.
- (7) Except in the case of Saint Lucia, if it appears that the deceased was not at the time of his or her death domiciled within the jurisdiction of the court which issued the grant, the grant may not be resealed unless it is such as would have been made by the court.
- (8) Where the court which issued the grant receives notice of the resealing of a grant, notice of any amendment or revocation of the grant shall be sent to the court by which it was resealed.

31. Amendment and revocation of a grant

(1) The court may make an order amending or revoking a grant where it is satisfied that it is appropriate to do so.

(2) An application for an order for amendment of a grant shall be in Form P18 and filed at the registry together with—

- (a) an affidavit setting out—
 - (i) the date and issue of the grant;
 - (ii) the nature of the error discovered;
 - (iii) the circumstances in which the error arose;
 - (iv) the necessity for the amendment;
 - (v) the nature of the amendment required; and
- (b) the grant.

(3) Where the amendment sought is an alteration of the gross value of the estate, an application for an order for an amendment shall be made in Form P18 and filed at the registry together with—

- (a) an affidavit setting out—
 - (i) the gross value of the estate as stated in the grant;
 - (ii) the discovery of an error in the gross value of the estate subsequent to the issue of the grant;
 - (iii) the revised gross value of the estate.
- (b) the grant;
- (c) an amended declaration and account of the estate setting out the gross value of the estate already returned, and the gross value now returned; and
- (a) if required, an amended estate or stamp duty certificate as the case may be.

(4) An application for revocation of a grant shall be in Form P19 and filed at the registry together with—

(a) an affidavit setting out—

(i) details of the first grant;

(ii) the grounds on which the revocation is sought; and

(iii) the entitlement of the applicant to a new grant;

(b) where the original grantee has become incapacitated or died, a medical certificate or other evidence of incapacity or the death certificate of the original grantee, as the case may be; and

(c) the grant.

(5) The court may require that a person who applied for an amendment or for revocation of a grant give notice to any person who may be affected.

32. Application for fresh grant after revocation

(1) Except for Saint Lucia where the Civil Code Act, Chap 4:01, Article 586(4) of Revised Laws of Saint Lucia applies, where an application is made for a grant of probate or letters of administration following the revocation of the original grant, the fresh grant shall recite the making of the first grant and revocation thereof.

(2) A certified copy of the order of revocation of the original grant shall be filed with the application for the fresh grant.

33. Limited and special grants

(1) A limited grant shall not be made unless every person entitled to the general grant has consented, renounced or has been cited and failed to appear, except under the direction of the court.

(2) A person entitled to a general grant in respect of the estate of a deceased person will not be permitted to take a limited grant except under the direction of the court.

(3) A limited grant may be limited as regards time or portion of the estate or otherwise as the court thinks fit.

34. How to apply for a grant to an attorney

(1) Where a person is entitled to apply for a grant of administration for the use and benefit of that person, the grant may be issued to his or her attorney acting under a duly registered power of attorney.

(2) Where the donor of the power is an executor, notice of the application shall be given to any other executor unless the court otherwise directs.

(3) A grant to an attorney may be limited until a further grant is made or in such other way as the court may direct.

(4) A person who seeks the grant to an attorney shall file at the registry the usual papers for the grant of letters of administration under rule 9 or under rule 13 as appropriate, subject to the following—

- (a) the oath shall include the following recitals —
 - (i) the entitlement of the donor to the grant
 - (ii) the appointment of the applicant as attorney of the donor;
- (b) a copy of the registered power of attorney.

35. Grant of letters of administration to consular officer

(1) An application for a grant of letters of administration to a consular officer may be made where a person who is a citizen or subject of a foreign country to which the laws governing consular conventions of the respective Member State applies, and—

- (a) dies leaving property within that Member State; and
- (b) there is no person within that Member State at the time of his or her death who is entitled to administer his or her estate.

(2) A grant to a consular officer may be made provided that—

- (a) no consular officer of the foreign country in respect of which the deceased is a citizen or subject is entitled to apply for a grant of the estate of the deceased; or
- (b) no other person is authorised by power of attorney to apply for a grant on behalf of the deceased.

(3) The grant to a consular officer shall be made to him or her in his or her official capacity, and is limited in such manner and for such time as the court deems it fit.

36. How to apply for a grant of letters of administration to a consular officer

A consular officer who seeks a grant under rule 35 shall file at the registry the usual papers for a grant of letters of administration under rule 9 or under rule 13, as the case may be, except that the oath shall include the following recitals—

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Antigua & Barbuda	- Administration of Estates by Consular Officers Act Cap. 6 Consular Conventions Act Cap. 95
Territory of the Virgin Islands	- Administration of Estates by Consular Officers Act Cap. 107
Dominica	- Administration of Estates by Consular Officers Act Ch. 9 08
Grenada	- Consular Conventions Act Cap. 63
Montserrat	- Administration of Estates by Circular Officers Act Cap. 127 Consular Conventions Act Ch. 17 51
St Christopher & Nevis, Anguilla)	- Administration of Estates by Consular Officers Act cap. 136
St Lucia	- Administration of Estates by Consular Officers Act Cap. 22 Consular Conventions Act Cap. 23
St Vincent & the Grenadines	- Administration of Estates by Consular Officers Act Cap. 378

- (a) that the applicant is a consular officer of a state to which the Consular Convention laws of the respective Member State applies;
- (b) that the person entitled to take out a grant of the deceased national's estate is outside the jurisdiction of the Member State;
- (c) that neither the consular officer nor any other person has been appointed attorney by the person entitled to take out the grant; and
- (a) that the applicant will collect, get in and administer according to law, the real and personal estate of the deceased for the use and benefit of the national until further representation be granted or in such other way as the court may direct.

37. Grant on behalf of a minor

(1) Where a person to whom a grant would otherwise be made is a minor, letters of administration for his or her use and benefit shall be limited until he or she attains the age of 18 years, and, shall unless otherwise directed, and subject to paragraph (2) be granted in the following order of priority—

- (a) to the parents or parent of the minor jointly or severally;
- (b) to the statutory or testamentary guardian; or
- (c) to a guardian appointed by a court of competent jurisdiction.

(2) The court may by order, assign a person as guardian of the minor and the assigned guardian may obtain a limited grant for the use and benefit of the minor in accordance with paragraph (1), in default of, or jointly with or to the exclusion of, any person mentioned in paragraph (1), and the intended guardian shall file an affidavit in support of his or her application to be assigned.

(3) Where there is only one person competent and willing to take a grant under paragraph (1) and (2), that person may, unless the court otherwise directs, nominate a fit and proper person to act jointly with him or her in taking the grant.

(4) Where the minor is a sole executor and has no interest in the residuary estate of the deceased, a grant of letters of administration for the use and benefit of the minor shall be limited until he or she attains the age of 18 years, shall be granted to the person entitled to the residuary estate unless the court otherwise directs.

38. Grant where minor is a co-executor

(1) Where one or more minors has been appointed as executor jointly with other executors, a grant of probate may be made to the executors who are not minors with power reserved to the minor executors who shall be entitled to apply for a grant of probate on attaining the age of 18 years.

(2) Where the executor or executors who are not minors renounce or, on being cited to accept or refuse a grant fail to make an effective application for a grant, an appointment may be made under rule 37.

39. how to apply for a grant on behalf of a minor

(1) A person who seeks a grant of letters of administration for the use and benefit of a minor, shall file at the registry the usual papers for a grant of letters of administration under rule 9 or under rule 13, as the case may be, including—

(a) where relevant, a filed copy of the order appointment or assignment, as appropriate;

(b) a certified copy of the birth certificate of the minor; and

(c) the nomination of a co-administrator, if required.

(2) The oath shall include the following recitals —

(a) that the person entitled to the grant is a minor;

(b) the capacity in which the applicant is applying for the grant, whether as the parents jointly, or as the statutory or testamentary guardian, or lawfully appointed or assigned guardian; and

(c) that the applicant will collect, get in and administer according to law the real and personal estate of the deceased for the use and benefit of the minor named during his or her minority, or in such other way as the court may direct.

40. Grant of letters of administration where person entitled is mentally incapable

(1) This rule applies where the court is satisfied that a person who would otherwise have been entitled to apply for a grant of letters of administration is by reason of mental incapacity incapable of managing his or her own affairs.

(2) A grant may only be made under this rule if—

- (a) the absence of all persons entitled to apply for a grant in the same degree as mentally incapable person have been accounted for; or
- (b) the court otherwise directs.

(3) A grant [of letters of administration] for the use and benefit of a mentally incapable person shall be limited until a further grant is made or in such other way as the court may direct, may be granted in the following order of priority—

- (a) to a person authorised under the Mental Health Act or any other relevant statutory authority of the relevant Member State;
- (b) to the person entitled to the residuary estate of the deceased; or
- (c) to such person or persons as the court may by order direct.

41. How to apply for a grant for use and benefit of a mentally incapable person

(1) A person who seeks a grant of letters of administration for the use and benefit of a mentally incapable person shall file at the registry the usual papers for a grant of letters of administration under rule 9 or under rule 13, as the case may be, including—

- (a) where relevant, a certified copy of the court order or certificate of incapacity or order of the court, as appropriate; and
- (b) if applicable, the nomination of a co-administrator.

(2) The oath shall include the following recitals—

- (a) the entitlement of the incapable person to the grant;
- (b) that the person so entitled is by reason of his or her mental incapacity incapable of managing his or her affairs and property;

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Eastern Caribbean Territories (save Dominica,
St. Vincent & the Grenadines,
The Territory of the Virgin Islands)
Dominica
St Lucia
St Vincent & the Grenadines

- Supreme Court Act, s. 7(2)
- Mental health Act cap. 131
- Mental Health Act Ch. 40:62
- Civil Code Chap 4:01, Art 285-296, Revised Laws of Saint Lucia.
- Mental Health Act Cap. 228

- (c) the authority or entitlement of the applicant to apply for the grant on behalf of the incapable person; and
- (a) that the applicant will collect, get in and administer according to law the real and personal estate of the deceased for the use and benefit of the incapable person until further representation be granted, or in such other way as the court may direct.

42. Have to apply for a grant for a physical incapable person

A grant of letters of administration on behalf of a physically incapable person may be made to an attorney duly constituted in the manner and form prescribed by rule 34 and the power of attorney shall be duly recorded in the registry.

43. Lost will or oral will grants

(1) An application for an order admitting to proof—

- (a) an oral will, except in the case of the Territory of the Virgin Islands;
- (b) a will contained in a copy; or
- (c) a reconstruction of a will;

Where the original will is not available, shall be supported by evidence on affidavit as the applicant can adduce as to—

- (i) the will's existence after the date of the testator's death or where there is no such evidence, the facts on which the applicant relies to rebut the presumption that the will has been revoked by destruction;
- (ii) in the case of an oral will, the contents of th will; and
- (iii) in respect of a reconstruction of a will, the accuracy of that reconstruction.

(2) The court may—

- (a) required additional affidavit evidence as to—
 - (i) due execution of the will; or

- (ii) the accuracy of the copy; and
- (b) direct that notice of the application given to any person who might be prejudiced by the application.

44. How to apply for a lost will grant

A person who seeks a lost will grant of probate or letters of administration shall, upon obtaining an order under rule 43, file at the registry the usual papers for a grant of probate under rule 8 or a grant of letters of administration with will annexed under rule 9, as the case may be, subject to the following—

- (a) the oath shall include the following recitals—
 - (i) particulars of the order, made pursuant to rule 43, admitting to proof a copy or draft or reconstruction of the will of the deceased, as appropriate;
 - (ii) the entitlement of the application to the grant;
 - (iii) the belief of the applicant that the paper writings now produced to and marked by him or contain a copy, draft, reconstruction or contents of the will, as appropriate; and
 - (iv) that the applicant will collect, get in and administer, according to law, the real and personal estate of the deceased limited until the original will or a more authentic copy of proved or in such other way as the court may direct; and
- (b) a copy of the order made pursuant to rule 43 shall be filed.

45. Grant of letters of administration under the discretionary powers of the court

(1) An application for an order for a grant of letters of administration under the discretionary powers conferred on the court under the relevant statutory provision of the respective Member State shall be made to the court in the first instance, and such application shall be supported by affidavit evidence setting out the grounds of the application.

(2) The application for an order under paragraph (1) shall include in its title the statutory provision and Act which the application is made

46. How to apply for a grant of letters of administration under the discretionary powers of the court

A person who seeks a grant of letters of administration under the discretionary powers of the court shall, upon obtaining an order under rule 45, file at the registry the usual papers for a grant of letters of administration under rule 9 or under rule 13, as the case may be, subject to the following—

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|----------------------------------|---|---|
| Anguilla, |) | |
| Territory of the Virgin Islands, |) | |
| St. Christopher & Nevis, |) | |
| Dominica, Antigua & Barbuda, |) | - Supreme Court Act 15/1966, s.116 |
| Montserrat |) | |
| Grenada | | - Probate Act Cap. 255, s.7 |
| St Lucia | | - Civil Code Chap 4:01, Article 586(6)(b) of the Revised Laws of St Lucia |
| St Vincent & the Grenadines | | - Administration of Estates Act Cap. 377, s.16 |

- (a) the oath shall include the following recitals—
 - (i) the date and effect of the order of the court including the relevant statutory provision and Act under which the order was made and;
 - (ii) a copy of the court of the court directing that the grant be made to the applicant pursuant to the discretionary powers of the court shall be filed.
- (b) a copy of the order of the court directing that the grant be made to the applicant pursuant to the discretionary powers of the court shall be filed.

47. Emergency grants

- (1) An application for an emergency grant may be made if—
 - (a) it is shown that the estate of a deceased person is in danger of spoliation or for any other reasons urgent steps are required to be taken for the custody or preservation of any property forming part of the estate of the deceased; and
 - (b) owing to the circumstances, it is not possible to constitute a general personal representative in sufficient time to meet the needs of the estate.
- (2) The grant shall be limited for the purpose of collecting, getting in and receiving the estate and doing such acts as may be necessary for the preservation of the estate and until further representation be made, or in such other way as the court may direct.

48. How to apply for an emergency grant

- (1) An application for an order for an emergency grant shall be made under the discretionary powers of the court and the application shall include in its title, the statutory provision and act of the relevant Member State under which the application is made.
- (2) An application for an order for an emergency grant shall be made to the court and shall be supported by evidence on affidavit stating—
 - (a) the reason why the grant is urgently required;
 - (b) that the person entitled to the grant cannot be located or is abroad or incapacitated; and
 - (c) that the applicant for the emergency grant is a fit and proper person.
- (3) The consent of the applicant to apply for an emergency grant shall be filed with the application.

(4) A person who seeks an emergency grant shall, upon obtaining an order under paragraph (2), file at the registry the usual papers for a grant of letters of administration under rule 13 subject to the following—

(a) the oath shall include the following recitals—

- (i) that an order was granted by the court for an emergency grant to be made to the applicant;
- (ii) that the applicant will collect, get in and administer according to law, the real and personal estate of the deceased limited to collecting, getting in and receiving the estate of the deceased and doing such act as may be necessary for the preservation of the estate and until further representation be granted or in such other way as the court may direct; and
- (iii) the gross value of the estate to be covered by the grant; and

(b) a copy of the order for the emergency grant shall be filed.

49. Grants pending suit

Where legal proceedings are pending concerning the validity of a will or the granting, recalling or revocation of letters of administration, an application may be made to the High Court for an order for a grant of letters of administration limited to the continuance of the litigation.

50. How to apply for a grant of letters of administration pending suit

(1) An application for an order for a grant of letters of administration pending suit is made under the discretionary powers of the court and the application shall include in its title the statutory provision and Act of the respective Member State under which the application for the grant is made.

(2) The application for an order for a grant of letters of administration pending suit shall be made to the court and shall be supported by evidence on affidavit stating—

- (a) the reason why the grant is required;
- (b) the value of the property which is likely to come into the hands of the applicant; and
- (c) the fitness to act of the proposed grantee, except where the applicant is a person duly appointed on behalf of the Crown.

(3) The consent of the proposed grantee to act shall be filed except where the applicant is a person appointed by the Crown.

(4) The person who seeks a grant of letters of administration pending suit shall, upon obtaining an order under paragraph (2), file at the registry the usual papers for a grant of letters of administration under rule 13 subject to the following—

(a) the oath of the administrator pending suit shall include the following recitals—

- (i) that there is a pending action touching and concerning the validity of the will of the deceased or the estate of the deceased, as appropriate;
- (ii) the granting of the order for a grant of letters of administration pending suit to the applicant; and
- (iii) that the administrator will collect, get in and administer according to law, the real and personal estate of the deceased pending the action, under the directions and control of the court except distributing the residue or in such other way as the court may direct; and

(b) file a copy of the emergency order.

51. Determination of probate action

(1) Upon the determination of the probate action in respect of which a grant pending suit was made under rule 49, a general grant may be applied for in the usual way under rule 8.

(2) The oath to lead to the general grant under paragraph (1) shall include details of the order under rule 49 and of the previous grant pending suit.

(3) A file copy of the final order under rule 49 in respect of the action shall also be filed with the papers to lead the grant.

52. How to apply for a grant limited to part of an estate

(1) An application for a grant of part of an estate may be made—

- (a) where the applicant is entitled to a grant in respect of part only of an estate; or
- (b) where a person entitled to the grant of a whole estate applies for a grant of part only of the estate.

(2) An application for an order for a grant under paragraph (1)(b) shall be made to the court supported by evidence in affidavit—

- (a) setting out the ground for the application;
- (b) stating whether the estate of the deceased is known to be insolvent; and
- (c) showing where applicable, how a person entitled to a grant of whole estate in priority to the applicant has been cleared off.

(3) No order is required for a grant limited to property under paragraph (1)(a).

(4) The person who seeks a grant limited to property shall file at the registry the usual papers for a grant of probate under rule 8 or a grant of letters of administration under rule 9 or under rule 13 as the case may be, including—

- (a) the declaration and account of the estate in Form P6 and in the case of the Territory of the Virgin Islands Form P6A, limited to a description and the value of the property covered by the grant; and
- (b) the copy of the order made under paragraph (2) if applicable.

(5) The oath shall include the following recitals—

- (a) particulars of the order where the application for the grant is made under paragraph (1)(b);
- (b) if applicable, the terms of the will limiting the grant to be property to be covered by the grant;
- (c) that the applicant will collect, get in and administer according to law the real and personal estate of the deceased limited in any way as the court may direct.

53. How to apply for a grant *durante absentia*

(1) An application for an order for a grant *durante absentia* may be made to the court, and shall be supported by evidence on affidavit stating—

- (a) details of the date and place of death of the deceased;
- (b) that the person to whom the grant was made is to the knowledge and information of the applicant residing out of the jurisdiction of the court and has to date filed or neglected to administer the deceased's estate;

- (c) that a notice in writing of the intended application was posted, if that is the case, to the postal address of the grantee and that such grantee has failed or neglected to reply, or advertised in a newspaper of general circulation in the state;
- (a) if applicable, that notice in writing of the application was sent to the person or persons having a prior entitlement to the grant; and
- (e) that the applicant is entitled to apply for the grant, and where the applicant is a creditor, particulars and evidence of the deceased's indebtedness.

(2) Where a person seeks a grant *durante absentia*, he or she shall upon obtaining an order pursuant to paragraph (1), file at the registry the usual papers for a grant of letters of administration, under rule 9 or under rule 13, as the case may be, including—

- (a) the grant; and
- (b) a copy of the order made under paragraph (1).

(3) The oath shall include the following recitals—

- (a) details of the order made under paragraph (1); and
- (b) that the applicant will collect, get in and administer, according to law, the real and personal estate of the deceased limited until the original grantee shall return to the jurisdiction of the High Court or in such other way as the court may direct.

54. How to apply for leave to swear death grant

(1) Subject to paragraph (4), in the case of St. Vincent and The Grenadines, an application for an order for leave to swear death shall be made to the court and shall be supported by evidence on affidavit—

- (a) giving details of any policies of insurance effected on the life of the presumed deceased; and
- (b) the grounds for supposing the presumed deceased to be dead.

(2) An order granting leave to swear death shall specify that on an application for the grant of the deceased's estate, that death may be sworn to have occurred on or since the date specified therein, being the date that the presumed deceased was last seen alive.

(3) A person who seeks leave to swear death grant shall upon obtaining an order pursuant to paragraph (1) file at the registry the usual papers for a grant of probate under rule 8 or a grant of letters of administration under rule 9 or under rule 13, as appropriate, except that the oath shall include the following recitals—

- (a) that the deceased died on or since the date set out in the order;
- (b) that the applicant is unable to depose to the place of death if that is the case; and
- (c) particulars of the order of the court made under paragraph (2).

(4) In the case of disaster-related deaths for St. Vincent & The Grenadines, under section 32 of the Registration of Births and Deaths Act, Cap. 242, Revised Laws of St. Vincent & The Grenadines, no order is required for leave to swear death provided that the court issues a death certificate under that section.

55. Second and subsequent grants

The following constitute second or subsequent grants of an estate—

- (a) a grant *de bonis non administratus*;
- (b) a *cessate grant*; and
- (c) a double probate grant.

56. How to apply for a grant *de bonis non administratus*

(1) An application for a grant *de bonis non administratus* is made following a grant of letters of administration to the person or persons entitled thereto but who for some reason failed to complete the administration of the estate in respect of which the grant was made.

(2) Subject to subrule (4), a person who seeks a grant *de bonis non administratus* shall file at the registry the usual papers for a grant of letters of administration under rule 9 or rule 13, as the case may be, including—

- (a) the original grant or where the original grant is not available, a filed copy of the grant;
- (b) a filed copy of the original will marked by the second grantee and the person before whom the oath is sworn; and

- (c) a declaration and account of the estate limited to a description and value of the property to be administered by the second grantee in accordance with Form P6 and in the case of the Territory of the Virgin Islands Form P6A;

(3) The oath shall include the following recitals—

- (a) if the deceased died testate, the appointment of the executor, if any, and the producing and marking of an official copy of the testator's will by the second grantee and authorised person, and the belief of the second grantee that it is a true copy of the original will of the deceased testator;
- (b) a description of the applicant and his or her entitlement to the grant;
- (c) where there are other persons with a prior right to the grant, including an executor by representation, the appropriate clearing off;
- (a) the reason or reasons for the failure of the original grantee to complete the administration of the estate;
- (e) where there is no estate left to be administered but a grant is nevertheless required for the purposes of constituting a personal representative, the reason for the application;
- (j) that the second grantee will collect, get in and administer, according to law, the unadministered real and personal estate of the deceased;
- (g) the gross value of the unadministered estate to be covered by the grant; and
- (h) where there are assets left to be administered that the original grantee failed to complete the administration of the estate.

(4) Where an application is made for a grant *de bonis non administratus* —

- (a) if the deceased died testate, an affidavit of due execution is not required to be filed with the application; and
- (b) the death certificate of the deceased in respect of whose estate the application is made is not required to be filed.

57. How to apply for a *cessate* grant

(1) An application for a *cessate* grant is made in circumstances where a previous grant has ceased to be effective.

(2) Subject to paragraph (4), a person who seeks a *cessate* grant shall file a registry the usual papers for a grant of probate under rule 8 or a grant of letters of administration under rule 9 or rule 13, as the case may be, including—

- (a) the original grant or where the original grant is not available, a filed copy of the grant;
- (b) an official copy of the original will marked by the second grantee and the person before whom the oath is sworn; and
- (c) a declaration and account of the estate limited to a description and value of the property to be administered by the second grantee set out in Form P6 and in the case of the Territory of the Virgin Islands set out in Form P6A.

(3) The oath shall include the following recitals—

- (a) a description of the second grantee and his or her entitlement to the grant;
- (b) details of the former grant, that is, to whom it was made and its place and date of issue;
- (c) where the deceased died testate, the producing and marking by the second grantee, of an official copy of the last will and testament of the deceased;
- (a) the circumstances relevant to the ceasing to operate of the former grant;
- (e) that the second grantee will collect, get in and administer according to law the real and personal estate of the deceased; and
- (j) the gross value of the unadministered estate to be covered by the grant.

(4) Where an application is made for a *cessate* grant—

- (a) if the deceased died testate, an affidavit of due execution is not required to be filed with the application; and
- (b) the death certificate of the deceased in respect of whose estate the application is made is not required to be filed.

58. How to apply for a double probate grant

(1) Subject to paragraph (3), an executor with power reserved who seeks a double probate grant shall file at the registry the usual papers for a grant of probate rule 8 including—

- (a) a filed copy of the original grant;
 - (b) an official copy of the original will marked by the executor to whom power was reserved and an authorised officer; and
 - (c) a copy of the original Declaration and Account of the Estate in Form P6 and in the case of Territory of the Virgin Islands Form P6A.
- (2) The oath shall include the following recitals—
- (a) details of the grant of probate to one or some of the executors; and
 - (b) the belief of the executor that the filed copy of the will, which is now produced to and marked by him or her, is an official copy.
- (3) Where an application is made for a double probate grant—
- (a) an affidavit of due execution is not required to be filed with the application; and
 - (b) the death certificate of the deceased in respect of whose estate the application is made is not required to be filed.

59. Duty of the court on receiving an application for a grant of probate or letters of administration

(1) A grant of probate or letters of administration shall not be made until the application has been published for two successive weeks in a newspaper circulating in the relevant Member State, and thereafter, not until the expiration of a further 7 days from the date of the last publication, unless the court otherwise directs.

(2) The court shall not issue a grant until all inquiries which it may see fit to make have been satisfactory answered.

(3) The court may require the person applying for a grant to issue a witness summons to any person who may be able to assist the court carrying out its duty under paragraph (2).

(4) Where an affidavit of due execution is not available from one of the attesting witnesses as required by rule 17, the court may require notice of the application to be given to any person who may be prejudiced by the grant.

(5) Except in the case of a notarial will, where the court after considering the evidence, is satisfied that a will was not duly executed, it shall refuse a grant of probate and mark the will accordingly.

60. Action after grant is made

(1) Immediately upon the grant of probate or letters of administration with will annexed the court shall—

- (a) record the will and any codicil in the registry; and
- (b) transmit the original and any codicil to the registry.

(2) The court shall—

- (a) maintain a register and record all grants of probate and letters of administration which it has issued;
- (b) allow public inspection of the register at all reasonable hours; and
- (c) permit the taking of copies on payment of the prescribed fee.

61. Entry, duration and renewal of caveat

(1) A person who wishes to show cause against the sealing of a grant may enter a caveat in Form P20 at the registry, giving an address for service and the court shall not allow any grant to be sealed (other than an emergency grant) if it has knowledge of an effective caveat provided that—

- (a) no caveat shall prevent the sealing of a grant on the day on which the caveat is entered; and
- (b) the sealing of the grant was first in time.

(2) The court shall maintain a register of caveats and a search of the index shall be made whenever an application for a grant is made.

(3) A caveat remains in force for 6 months only.

(4) A caveat—

⁷In Saint Lucia, Articles 1027(1) and 1029(3)(b), Code of Civil Procedure, Ch 243, Part 6th, St Lucia Revised Ordinances, 1957 which require an address within one mile of the Registry shall not apply

- (a) may be renewed for a further period of 6 months by filing a written request at the registry for an extension and the caveat shall subject to rule 63 be effective for an additional period of 6 months from the date on which it was due to expire except that any application for a renewal shall be made prior to the expiry of the six-month period; and
- (b) which has been extended may be further extended by the filing of a further request in writing for an extension, subject to the same conditions set out in paragraph (a).

62. Warning to caveat

(1) A person claiming to have an interest in the estate may cause to be issued to the caveator a warning in Form P21 which shall—

- (a) state his or her interest in the estate;
- (b) if, claiming under a will or a codicil, state the date of that will or codicil; and
- (c) requires the caveator to file an acknowledgement of service and give particulars of any contrary interest in the estate. Whether under a will or on an intestacy.

(2) a caveator having an interest contrary to that of the person warning, may within 14 days of service of the warning (inclusive of the day of such service) or at any time thereafter if no affidavit has been filed under rule 63(3), file an acknowledgement of service in Form P22 and the caveator shall serve forthwith on the person warning, a copy of Form P22 sealed with the seal of the court.

(3) A caveator having no interest contrary to that of the person warning, but who wishes to show cause against the sealing of a grant to that person, may within 14 days of service of the warning upon him or her (inclusive of the day of such service) or any time thereafter if no affidavit has been filed under rule 63(3), issue and serve a notice of application for directions in Form P2.

63. Expiry of caveat

(1) On the hearing of an application for directions, under rule 62(3), the court may give a direction for the caveat to cease to have effect, but any caveat in force when the application for directions is issued shall remain in force until the application had been disposed of unless a direction has been given under rule 62(3).

(2) A caveator who has not filed an acknowledgement of service to a warning may at any time withdraw his or her caveat by giving notice to the registry and the caveat shall cease to have effect, and notice of the withdrawal shall be given by the caveator to the person warning the caveat.

(3) If no acknowledgement of service is filed by the caveator or no notice of application for directions has been issued by him or her under rule 62(3), the person warning may at any time after 14 days of service of the warning upon the caveator (inclusive of the day of service) file an affidavit as to such service and the caveat shall thereupon cease to have effect provided that there is no pending application for directions under rule 62(3).

(4) Unless the court otherwise by order directs, a caveat in respect of which an acknowledgment of service has been filed, shall remain in force until the commencement of a probate action.

(5) Except with leave of the court, no further caveat may be entered by or on behalf of any caveator whose caveat is either in force or has ceased to have effect under paragraph (1) or (3) or under rule 64(2) or 65 (11).

64. Probate Actions

(1) Where a probate action is commenced—

(a) the claimant shall give notice of the claim—

(i) to every caveator, other than the claimant in that claim whose caveat remains in force; and

(ii) to any subsequent caveator;

(b) the cost of filing a caveat and warning that caveat are costs in the claim; and

(c) no grant of probate may be sealed until an application is made by a person shown to be entitled by the decision of the court in that claim unless the court by order made on application otherwise directs.

(2) Upon an application for a grant of probate being made by the person shown to be entitled by the decision of the court in the claim, any caveat—

(a) entered by the claimant; or

- (b) in respect of which notice of the claim has been given under paragraph (a), shall cease to have effect.

65. Citations

- (1) Before issuing a citation, the citor shall enter a caveat.
- (2) Every averment in a citation shall be verified by an affidavit sworn by the citor provided that the court may in citor provided that the court may in special circumstances accept an affidavit sworn by the citor's attorney.
- (3) The citation shall be settled by the court before being issued.
- (4) Every citation shall be served personally on the citee unless the court directs some other form of service.
- (5) Where the court directs some other mode of service an application for service of the citation need not be on notice, but shall be supported by evidence on affidavit.
- (6) A citation against all persons in general is served by the insertion of the citation in a newspaper circulating in the relevant Member State.
- (7) The citor shall lodge with the citation every will referred to in the citation unless—
 - (a) it is not in the citor's possession; and
 - (b) the court is satisfied that it is impractical for it to be lodged.
- (8) A cite shall file at the registry an acknowledgment of service in Form P22 and shall serve a copy of the acknowledgment of service on the citor.
- (9) An acknowledgment of service shall be filed and served within 14 days from the date of service or publication of the citation.
- (10) A caveat in force at the commencement of citation proceedings remains in force until an application for a grant is made by the person shown to be entitled by the decision of th court in such proceedings unless—
 - (a) it is withdrawn in accordance with rule 64 (2); or

(b) following an application on notice the court otherwise orders.

(11) Upon an application being made under paragraph (10) a caveat entered by a person who had notice of the proceedings ceases to have effect.

66. Citation to accept or refuse or to take a grant

(1) A person who would be entitled to grant in the event of the cite renouncing his or her rights to a grant may issue a citation to accept or refuse a grant in Form P23 or Form P24, as the case may be.

(2) Where power to make a grant executor has been reserved, a citation in Form P25, calling on him or her to accept or refuse a grant may be issued by—

(a) the executors who have proved the will;

(b) the survivor of such executors; or

(c) the executors of the last surviving executor who has proved the will.

(3) Where an executor has started to administer the estate of the deceased prior to obtaining probate, a citation in Form P26 calling on him or her to show cause why he should not be ordered to take a grant may be issued by any person interested in the estate.

(4) A citation under paragraph (3) may not be issued—

(a) until 6 months have expired from the death of the deceased; or

(b) while any proceedings as to the validity of the will are pending.

(5) A person served with a citation shall file an acknowledgment of service in Form P22 and shall serve a copy of such acknowledgment on the citor.

(6) The time for filing and serving an acknowledgment of service is 28 days after service of the citation.

(7) After filing an acknowledgment of service, a citee may apply to the court for an order for a grant to himself or herself.

(8) An application under paragraph (7) may be made without notice, but must be supported by affidavit evidence.

67. Acknowledgment of citation to accept or refuse or take a grant, then default

(1) Where a person makes a citation under rule 66(1) and the cite has filed an acknowledgment of service but—

(a) has not applied for a grant under rule 66(7); or

(b) has failed to proceed with his or her application with reasonable diligence;

the citor may apply to the court on notice to the cite for a grant to himself or herself.

(2) Where the person makes a citation under rule 66(2) and the citee has filed an acknowledgment of service but—

(a) has not applied for a grant under rule 66(7); or

(b) has failed to proceed with his or her application with reasonable diligence;

The citor may apply to the court on notice to the cite for an order striking out the acknowledgment of service and that a note be made on the grant that—

(i) the executor in respect of whom power was reserved has been duly cited;

(ii) that executor has not filed an acknowledgment of service; and

(iii) his or her rights in respect of the executorship have wholly ceased.

(3) Where the person makes a citation under rule 66(3) and the citee has filed an acknowledgment of service but—

(a) has not applied for a grant under rule 66(7); or

(b) has failed to proceed with his or her application with reasonable diligence;

the citor may apply to the court on notice to the cite for an order requiring the citee to take a grant within a specified time or for a grant to the cite or to some other person specified in the application.

68. Default of acknowledgment of service of citation to accept or refuse or take a grant

Where no acknowledgment of service has been filed in accordance with rule 66(5), the citor may—

- (a) in the case of a citation under rule 66(1) apply to the court for a grant to himself or herself;
- (b) in the case of a citation under rule 66(2) apply to the court for an order that a note be made on the grant that—
 - (i) the executor in respect of whom power was reserved has been duly cited;
 - (ii) that executor has not filed an acknowledgment of service; and
 - (iii) his or her rights in respect of the executorship have wholly ceased; and
- (c) in the case of a citation under rule 66(3), apply to the court on notice for an order requiring the person cited to take a grant within a specified time or for a grant to the person cited or to some other person specified in the application.

69. Citation to propound a will

(1) A citation to propound a will in Form P27 may be issued at the request of any person having an interest contrary to that will.

(2) The citation shall be directed to and served on the executors named in the will and to all persons interested under the will.

(3) A person served with a citation shall file an acknowledgment of service in Form P22 and shall serve a copy of such acknowledgment on the citor.

(4) The time for filing and serving an acknowledgment of service is 14 days from the service of the citation.

70. Acknowledgment of service of citation to propound a will, then default

Where the cite has failed an acknowledgment of service but has failed to propound the will with reasonable diligence, the citor may apply to the court on notice to every person cited who has acknowledged service for an order for a grant as if the will were invalid.

71. Default of acknowledgment of service of citation to propound a will

Where—

- (a) no acknowledgment of service has been filed in accordance with rule 69(3); and
- (b) the time limited for service under rule 69(4) has expired;

The citor may apply to the court for an order for a grant of probate as if the will were invalid.

72. Affidavit of service to citation

Any application under rule 66 and under rule 69 shall be supported by an affidavit showing due service of the citation on each person who has not acknowledged service.

73. Application for an order to attend for examination or for summons to bring in will

(1) An application requiring a person to attend for examination may be made to the court on notice to such person.

(2) An application for a witness summons to bring in the will may be made without notice but shall be supported by evidence on affidavit setting out the grounds of the application.

(3) The witness summons shall be in Form P28.

(4) A person served with a witness summons, who denies that the will is in his or her possession or control, may file an affidavit to that effect.

74. Fees

The fees to be taken in the High Court in respect of Non-Contentious Probate and Administration of Estates proceedings filed under these Rules shall be in accordance with the fees specified in Schedule D of the COURT PROCEEDINGS (FEES) RULES, 2017.

SCHEDULE 1

FORM P1: APPLICATION FOR GRANT

Rule 7(1), 8(1)(a), 9(1)(a), 13(1)(a)

[State/Territory]

In the Estate of (full names) late of (address), deceased

Application is hereby made to the Registrar by (full names *cf* applicant) of (address) (occupation) in (state/territory) –

- (a) For a grant of Probate of the Will of the above named deceased who died on the day of 19/20 without revoking a will bearing the date of day of 19/20 wherein the applicant(s) is/are named sole executor/executors.

OR

- (b) For a Grant of Letters of Administration with the Will Annexed of the above named deceased who died on the day of 19/20 without revoking a will bearing the date of day of 19/20 wherein the applicant is (show applicant's entitlement to grant).

OR

- (c) For a Grant of Letters of Administration to the applicant who is (state capacity of applicant) of the deceased, the deceased having died intestate on the day of 19/20.

Dated this day of 20 .

Filed by [] Attorneys-at-Law/Propounder/Administrator

The Registry is at (address), telephone number ,fax . The office is open between 9:00 a.m. to 4:00 p.m. Mondays to Thursdays and 9:00 a.m. to 3:00 p.m. on Fridays except Public Holidays

FORM P2: NOTICE OF APPLICATION

Rule 7(1), 62(3)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased.

TAKE NOTE that I/we intended to apply to the (registrar)(judge) at the High Court, (address) on the day of 19/20 , at am./p.m.

For –

(a) Directions

(b) An order that (set out terms cf order sought)

The grounds of this application are –

(set out grounds cf application)

A draft of the order sought is attached.

AND FURTHER TAKE NOTICE that if you do not attend at the time and place stated above the court may make such order as it thinks fit in your absence.

Dated

Signed

Attorneys-at-Law/Propounder/Administrator

The applicant's address for service is:

The Registry is at *(address)*, telephone number _____, fax _____. The office is open between 9:00 a.m. to 4:00 p.m. Mondays to Thursdays and 9:00 a.m. to 3:00 p.m. on Fridays except Public Holidays.

FORM P3: OTH OF EXECUTORS

Rule 8 (1) (C)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased.

I/We

1. *(full names of executor)* of *(address)* *(occupation)*
2. *(full names of executor)* of *(address)* *(occupation)*
3. *(full names of executor)* of *(address)* *(occupation)* make oath and say [do solemnly and sincerely affirm] that –

(1) I/We believe the annexed paper writing marked “A” to contain the true and original last Will and Testament [and codicil] of the deceased *(name of deceased)* who died on _____ day of _____ 19/20 _____, at *(address)* domiciled in *(state/territory)*

(2) The annexed document marked “B” is a certified copy of the death certificate of the deceased.

(3) I am/we are the executor(s) [one/some of the executors] therein named.

(4) Notice was given to the executors to whom power has been reserved namely *(names)* on day of _____ 19/20 _____.

(5) The [certified copy of the death certificate of] [renunciation of probate made by] (*names cf executor who has died or renounced probate*) is annexed and marked “C”.

(6) I/we will faithfully collect, get in and administer according to law all the real and personal estate of the deceased.

(7) I/we will render a just and true account of my/our executorship whenever required by law to do so.

(8) To the best of my/our knowledge, information and belief, the said estate amounts in gross value to the sum of (*\$ amount/ \$ Valuation range*) and no more.

(9) The annexed document marked “D” is a true Declaration and Account of the Estate of the deceased.

Sworn/Affirmed at
on the day (signed)
of 20
before me,

Commissioner for Oaths/Notary Public/Notary Royal

Filed by: Attorneys-at-Law / Propounder whose address for service is **FORM**

P4: OATH OF ADMINISTRATORS WITH THE WILL ANNEXED

Rule 9 (1) (c)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of (*full names*) late of (*address*), deceased.

I/We

1. (*full names cf administrator*) of (*address*) (*occupation*)
2. (*full names cf administrator*) of (*address*) (*occupation*)

3. *(full names cf administrator)* of *(address)* *(occupation)* make oath and say [do solemnly and sincerely affirm] that –

(1) I/We believe the annexed paper writing marked “A” to contain the true and original last Will and Testament [and codicil] of the deceased *(name cf deceasea)* who died on day of
19/20 , at *(address)* domiciled in *(state/territory)*

(2) The annexed document marked “B” is a certified copy of the death certificate of the deceased.

(3). There is [a] [no] minority and [a] [no] life interest in the estate of the deceased.

(4) The executor(s) named in the will [died are] [renounced probate of the will and the certified copy of his/her/their death certificates are] [renounced probate of the will and a certified copy of the renunciation is] annexed and mark “C”.*

(5) I am/We are the *(show entitlement to grant, e.g. the residuary legatees and devisees named in the will)* of the deceased and, to the best of my/our knowledge information and belief, there is no other person entitled in priority to a grant of letters of administration with the will annexed.

(6) I/we will faithfully collect, get in and administer according to law all the real and personal estate of the deceased.

(7) I/we will render a just and true account of my/our administration whenever required by law to do so.

(8) To the best of my/our knowledge, information and belief, the said estate amounts in gross value to the sum of *(\$ amount/ \$ Valuation range)* and no more.

(9) The annexed document marked “D” is a true Declaration and Account of the Estate of the deceased.

Sworn/Affirmed at

on the day *(signea)*
of 20
before me,

Commissioner for Oaths / Notary Public / Notary Royal

Filod by
Whose address for service is []

Attorneys-at-Law / Administrator

**Where the executor has been cleared of by citation to accept or refuse a grant, the following paragraphs should be substituted for paragraph (4) and the succeeding paragraphs sequentially renumbered) –*

(4) (full names of executor), the executor named in the will, has been duly cited to accept or refuse a grant of probate of the estate of the deceased.

(5) In default of acknowledgment of service of (name of executor) to the citation, it was ordered by Mr. Registrar (name) on the day of 20 , that letters of administration with will annexed of the deceased's estate be granted to me/us and a certified copy of the said Order is annexed and marked "C".

Where the executor has been cleared of by citation to take probate, the following paragraphs should be substituted for paragraph (4) and the succeeding paragraphs sequentially renumbered)–

(4) (full names of executor) named in the will has been duly cited to take a grant of probate of the estate of the deceased.

(5) In default of acknowledgment of service of (name of executor) to the citation, it was ordered by Mr. Registrar (name) on the day of 20 a certified copy of the said Order is annexed and marked "C".

P5: OATH OF ADMINISTRATORS

Rule 13 (1) (c)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased.

I/We

1. *(full names of administrator) of (address) (occupation)*
2. *(full names of administrator) of (address) (occupation)*

3. *(full names of administrator)* of *(address)* *(occupation)* make oath and say [do solemnly and sincerely affirm] that –

(1) *(full name of deceased)*, late of *(address)*, deceased died intestated on the day of 20, domiciled in *(state/territory)* a *(state status of deceased, e.g. spinster, widower and where necessary, account for any class entitled in priority to the applicant(s), .eg. “without issue or parent”.)*

(2) The annexed document marked “A” is a certified copy of the death certificate of the deceased.

(3). There is [a] [no] minority and [a] [no] life interest in the estate of the deceased.

(4) I am/We are *(state relationship to deceased showing entitlement to grant)* of the deceased and to the best of my/our knowledge information and belief there is no other person entitled in priority to share in his or her estate by virtue of any enactment.

(5) I/we will faithfully collect, get in and administer according to law all the real and personal estate of the deceased.

(6) I/we will render a just and true account of my/our administration whenever required by law to do so.

(7) To the best of my/our knowledge, information and belief, the said estate amounts in gross value to the sum of *(\$ amount/ \$ valuation range)* and no more.

(8) The annexed document marked “D” is a true Declaration and Account of the Estate of the deceased.

Sworn/Affirmed at

on the day *(signea)*
of 20
before me,

Commissioner for Oaths / Notary Public / Notary Royal

Filed by
Administrator whose address for service is

Attorneys-at-Law /

FORM P6: DECLARATION AND ACCOUNT OF ESTATE

Rule 8(1)(g), 9(1)(g), 13(1)(e), 30(3)(j), 52(4)(a), 56(2)(c), 57(2)(c), 58(1)(c)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased.

A true Declaration and Account of all the Estate which by Law devolves to and vests in the personal representative(s) of *(full names cf deceasea)* who died on the day of 19/20 at *(state/territory)* which has since his or her death come into the hands possession or knowledge of the personal representative(s) of *(name cf deceasea)* made and exhibited upon by virtue of the oath of the same *(full name(s) cf personal representative(s))*.

Description of Property	Value
Cash in hand	
Cash in bank (name of bank or banks and amount in each)	
Shares <i>(name cf company or companies and number in each)</i>	
Household goods, furniture, plate, linen, china, jewellery, etc.	
Policies of Insurance <i>(name cf company or companies and amount in each)</i>	
Land at (SEE VALUATION(S) ATTACHED)	
Other Personal property not comprised under foregoing heads <i>(description)</i>	
Deduction, Viz: <i>(a)</i> Funeral expenses \$ <i>(b)</i> Bona fida debts \$	
Total Value	\$

This Declaration further declares that no Estate devolving to or vesting as aforesaid in the personal representative(s) of the deceased has at any time since his or her death come into the hands, possession or knowledge of this/these Declarant(s), save as herein before set forth.

On the _____ day of _____ 20 _____ the said *(full name(s) cf personal representative(s))* to the truth of the above Declaration at *(address)* was duly sworn/affirmed in *(state/territory)*
Before me,

.....
.....
Commissioner for Oaths/
Notary Public / Notary Royal

Declarant(s)

FORM P6A: DECLARATION AND ACCOUNT OF ESTATE

Rule 8(1)(g), 9(1)(g), 13(1)(e), 30(3)(j), 52(4)(a), 56(2)(c), 57(2)(c), 58(1)(c)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

The Territory cf the Virgin Islands

In the Estate of *(full names)* late of *(address)*, deceased.

A true Declaration and Account of all the Estate which by Law devolves to and vests in the personal representative(s) of *(full names cf deceasea)* who died on the day of _____ 20 _____ at *(state/territory)* which has since his or her death come into the hands possession or knowledge of the personal representative(s) of *(name cf deceasea)* made and exhibited upon by virtue of the oath of the same *(full name(s) cf personal representative(s))*.

<i>(a)</i>	Below \$50,000,
<i>(b)</i>	\$50,001 - \$250,000
<i>(c)</i>	\$250,001 - \$500,000
<i>(a)</i>	\$500,001 - \$1,000,000

(e)	\$1,000,001 - \$5,000,000
(j)	Over \$5,000,000

This Declaration further declares that no Estate devolving to or vesting as aforesaid in the personal representative(s) of the deceased has at any time since his or her death come into the hands, possession or knowledge of this/these Declarant(s), save as herein before set forth.

On the day of 20 the said *(full name(s) cf personal representative(s))* to the truth of the above Declaration at *(address)* was duly sworn/affirmed in *(state/territory)*
Before me,

.....
.....
Commissioner for Oaths/
Notary Public / Notary Royal

Declarant(s)

FORM P7: ADVERTISEMENT OF APPLICATION FOR GRANT

Rule 15

**The Eastern Caribbean Supreme Court
IN THE HIGH COURT OF JUSTICE**

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased

TAKE NOTICE that an application has been filed by *[Name]* of *[address]* for Grant of

- (a) Probate of the Will of the above named deceased who died on the day of 19/20 without revoking a will bearing the date of day of 20 wherein the applicant(s) is/are named sole executor/executors.

OR

- (b) Letters of Administration with the Will Annexed of the above named deceased who died on the day of 19/20 without revoking a will bearing the date of day of 19/20 wherein the applicant is (*show applicant's entitlement to grant*).

OR

- (c) Letters of Administration to the applicant who is (*state capacity of applicant*) of the deceased, the deceased having died intestate on the day of 19/20 .

Any person having an objection to the grant of Probate / Letters of Administration to the application shall file an objection within 14 days of the publication of this Notice.

Dated this day of 20 .

Filed by Attorneys-at-Law / Propounder / Administrator whose address for service is

[FIRST / SECOND PUBLICATION]

FORM P8: AFFIDAVIT OF DUE EXECUTION

Rule 17(1)(a)(i)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of (*full names*) late of (*address*), deceased.

I (*full names cf attesting witness*) of (*address*) make oath and say [do solemnly and sincerely affirm] that –

(1) I am one of the attesting witnessed to the [last Will and Testament] [and codicil] of the deceased, (*full names*) deceased. The said [will] [codicil] is hereto exhibited and marked “A”.

(2) The deceased executed the said [will] [codicil] on the day of the date thereof by [signing his or her name (at the foot or end thereof) (in the attestation clause thereof) as it now appears]

OR

[acknowledging his or her signature by referring to it and pointing to it at the foot or the end of it as it now appears (*or state other position*)]

OR

[by making his or her mark at the foot or at the end of it as now appears (or state other position)]

OR

By (*name cf subscribing witness*) signing the testator’s name [or his or her own name] at the foot or end thereof as it now appears,

Meaning and intending the same to be his or her final signature of the [will] [codicil] in the presence of (*name cf other witness*) and me, both of us being present at the same time and we therefore attested and subscribed the said [will] [codicil] in the presence of the deceased [and in the presence of each other].*

Sworn/Affirmed at
on the day
of 20
Before me,

(signed)

Commissioner for Oaths

Filed by
Whose address for service is

Attorneys-at-Law/Propounder

FORM P11: AFFIDAVIT OF PLIGHT AND CONDITION AND FINDING*Rule 22(2)***The Eastern Caribbean Supreme Court****IN THE HIGH COURT OF JUSTICE****(Probate)***[State/Territory]*In the Estate of *(full names)* late of *(address)*, deceased.I *(full names cf executor/administrator)* of *(address)*, make oath and say [do solemnly and sincerely affirm] that –(1) I am the/one of the (State whether executor(s)/administrator(s)) of the estate of *(full names)*, late of *(address)*, deceased.(2) The annexed paper writing marked “A” to the best of my information and belief contains the [last Will and Testament] [and codicil] of *(name cf deceased)* late of *(address)* deceased, the said Will being dated the day of 19/20 .(3) I have viewed and perused the said [will] [and codicil] and particularly observed [*here recite the various obligations, interlineations, erasures, and alterations (if any), or describe the plight and condition of the will, or any other matters requiring to be accounted for, and set forth the finding of the will in its present state, and, if possible, trace the will from the possession of the deceased in his or her lifetime up to the time of making the affidavit.*](4) The [will] [and codicil] is now in all respects in the same state, plight and condition as when found [*or as the case may be*] by me as stated above.

Sworn/Affirmed at

*(Signea)*On the day
of 20
Before me,

Commissioner for Oaths/Notary Public /Notary Royal

Filed by Attorneys-at-Law/Propounder whose address for service is

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased.

Notice is given that after the expiration of 14 days application will be made to the Registrar of the Supreme Court for a Grant of

- (a) Probate of the Will of the above named deceased of *[address]* who died on the day of 19/20 without revoking a will bearing the date of day of 19/20 wherein the applicant(s) is/are named executor/executors.

OR

- (b) Letters of Administration with the Will Annexed of the above named deceased of *[address]* who died on the day of 19/20 without revoking a will bearing the date of day of 19/20 wherein the applicant is *(show applicant's entitled to grant)*.

OR

- (c) Letters of Administration to the applicant who is *(state capacity of applicant)* of the deceased, of *[address]* having died instead on the day of 19/20

. Dated this day of 20 .

Filed by
Service is

Attorneys-at-Law/Propounder/Administrator whose address for

FORM P16: ADVERTISEMENT (RESEALING)

Rule 30 (2)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased.

Notice is given that after the expiration of 8 days application will be made to the Registrar of the Supreme Court for the resealing of the [probate] [grant of letters of administration of the estate] of *(full names of deceased)* late of *(address)* granted by the Court at *(address)* on the day of 20 .

Signed:

Attorney-at-Law for/Propounder/Administrator

FORM P17: APPLICATION TO RESEAL GRANT

Rule 30 (3)(a)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased.

I/We *(full names of applicant(s))* of *(address)* make oath and say [do solemnly and sincerely affirm] that –

(1) A grant of probate of the last Will and Testament [grant of letters of administration of the estate] of *(full names of deceased)* late of *(address)*, deceased was granted to me *(or full names of executor(s) or administrator(s) where application made by agent)* by the Court at on the day of 19/20 .

(2) A copy of the will to which the grant relates is annexed and marked “A”.

(3) A certified copy of the said grant is annexed and marked “B”.

(4) At the date of his or her death the deceased was domiciled in *(state place)*

(5) The annexed notice marked "B" was inserted in the (name of newspaper) on the day of 20 .

(6) [I am the agent lawfully appointed by the said (full name of executor(s)/administrator(s)) and am authorized to apply to this Court to reseal the said grant]

(7) To the best of my/our knowledge information and belief, the value of the estate amounts in value in the sum of (\$ amount/\$valuation range) and no more.

Sworn/Affirmed at (signea)
on the day
of 19/20
Before me,

Commissioner for Oaths/Notary Public/Notary Royal/

Filed by Attorneys-at-Law/Propounder/Administrator whose address for service is

FORM P18: APPLICATION FOR AN ORDER FOR AMENDMENT OF A GRANT

Rule 31(2),(3)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of (full names) late of (address), deceased.

Application is hereby made to the Registrar by (full names of applicant) of (address) (occupation) in (state/territory) for an order amending a grant issued on the day of for

- (a) Probate of the Will of the above named deceased who died on the day of 19/20 without revoking a will bearing the date of day of 19/20 wherein the applicant(s) is/are named executor/executors.

OR

(b) Letters of Administration with the Will Annexed of the above named deceased of [address] who died on the _____ day of _____ 19/20 without revoking a will bearing the date of day of 19/20 _____ wherein the applicant is (show applicant's entitlement to grant).

OR

(c) Letters of Administration to the applicant who is (state capacity cf applicant) of the deceased, of [address] having died instead on the _____ day of _____ 19/20 . Dated this day of 20 _____ .

The nature of the application for amendment is –

Dated this _____ day of _____ 20 _____ .

Filed by [] Attorneys-at-Law/Propounder/Administrator whose address for []

FORM P19: APPLICATION FOR REVOCATION OF A GRANT

Rule 31(4)

The Eastern Caribbean Sureme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of (full names) late of (address), deceased.

Application is hereby made to the Registrar by (full names cf applicant) of (address) (occupation) in (state/territory) for revocation of a grant issued on the _____ day of _____ for

(a) Probate of the Will of the above named deceased who died on the _____ day of 19/20 (without revoking a will bearing the date of) _____ day of 19/20 wherein the applicant(s) is/are named sole executor/executors.

OR

(b) Letters of Administration with the Will Annexed of the above named deceased who died on the _____ day of _____ 20 (without revoking a will bearing the date of) _____ day of _____ 20 wherein the applicant is (*show applicant's entitlement to grow*)

OR

(c) Letters of Administration to the applicant who is (*state capacity cf applicant*) of the deceased, the deceased having died instead on the _____ day of _____ 20 .

Dated this day of _____ 20 _____ .

Filed by _____ Attorneys-at-Law/Propounder/Administrator whose address for For service is _____

FORM P20: CAVEAT

[Rule 61(1)]*

The Eastern Caribbean Sureme Court

IN THE HIGH COURT OF JUSTICE

[*State/Territory*]

In the Estate of (*full names*) late of (*address*), deceased.

Let no grant be sealed in the Estate of *(full names)*, late of *(address)*, deceased who died on the day of 19/20 without notice to *(name of person on whose behalf caveat entered)*.

Dated this day of 20 .

(Signed)
(to be signed by the caveator or his or her Attorney-at-Law)

Whose address for service is

[Attorney-at-Law for the said *(name of caveator)*] [in person]

**In Saint Lucia, Articles 1027 (1) and 1029(3)(b), Code of Civil Procedure, Ch. 243, Part 6th, St. Lucia Revised Ordinances, 1957 which require an address within one mile of the Registry shall not apply*

FORM P21: WARNING TO CAVEATOR

Rule 62(1)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased.

To *(full names of caveator)* of *(address)* a party who has entered a caveat in the estate of the above named deceased.

You have 14 days (starting on the day on which this warning was served on you)

- (a) to file an acknowledgment of service either in person or by your Attorney-at-law at the registry setting out what interest you have in the estate of the above-named deceased contrary to the party at whose instance this warning is issued; or

Full names and address cf person warning [or citor] (here set out the interest cf the person warning or citor as shown in the warning or citation)

Full names and address cf caveator [or person citea] (here set out the interest cf the caveator or person cited, stating the date cf the will (if any) under which such interest arises)

The above-named [caveator] [or person cited] acknowledges service of the [warning] [citation] dated on the day of 20 .

(signea)

[Attorney-at-Law for the] [the caveator] [person cited] [in person]
whose address for service is

This acknowledgment of service must be filed at the registry and a copy served on the person warning or citor

The Registry is at (*address*) telephone number , fax . The office is open between 9:00 a.m. to 4:00 p.m. Mondays to Thursdays and 9:00 a.m. to 3:00 p.m. on Fridays except Public Holidays.

FORM P23: CITATION TO ACCEPT OR REFUSE PROBATE

Rule 66(1)

The Eastern Caribbean Sureme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of (*full names*) late of (*address*), deceased.

To (*full names cf cite*, of (*address*))

WHEREAS it appears by the [affidavit] [affirmation] of (*full names cf citor*) [sworn] [affirmed] the day of 20 , that (*full names cf deceasea*) of (*address*) died on the day of 19/20 domiciled in (*state/territory*), having made and duly executed his or her last will and testament [and codicil] dated the day of 19/20 , and thereof appointed you (*name cf cite*), executor, and

WHEREAS it appears by the [affidavit] [affirmation] that (*name of citor*) is the (*state status of citor e.g. residuary legatee and devisee*).

Now this is to command you (*name of cite*) that within 14 days after service hereof on you, inclusive of the day of such service, you filed an acknowledgment of service at the registry and accept or refuse probate of the said will or show cause why letters of administration with will annexed of all the estate which by law devolves to an vest in the personal representative of the said deceased should not be granted to (*name of citor*). And take notice that in default of your failing to acknowledge service of the citation and accepting and extracting probate of the will of the deceased, our Court will proceed to grant letters of administration with the will annexed of the estate to (*name of citor*), your absence notwithstanding.

Dated at (*address*) this day of 20 .

Issued at the instance of Registrar

(*name of citor*)

The Registry is at (*address*) telephone number , fax . The office is open between 9:00 a.m. to 4:00 p.m. Mondays to Thursdays and 9:00 a.m. to 3:00 p.m. on Fridays except Public Holidays.

FORM P24: CITATION TO ACCEPT OR REFUSE ADMINISTRATION

Rule 66(1)

The Eastern Caribbean Sureme Court

IN THE HIGH COURT OF JUSTICE

[*State/Territory*]

In the Estate of (*full names*) late of (*address*), deceased.

To (*full names of cite*, of (*address*))

WHEREAS it appears by the [affidavit] [affirmation] of (*full names of citor*) [sworn] [affirmed] the day of 20 , that (*full names of decessa*) of (*address*) died on the day of 19/20 domiciled in (*state/territory*), intestate, leaving you (*relationship of cite to decessa*) and one of the persons entitled to share in his or her estate, and

WHEREAS it further appears by the said [affidavit] [affirmation] that (*name of citor*) is the (*state relationship of citor to the decessa*) and one of the persons entitled to share in the estate of the deceased.

Now this is to command you (*name of cite*) that within 14 days after service hereof on you, inclusive of the day of such service, you filed an acknowledgment of service at the registry and accept or refuse letters of administration of all the estate which by law devolves to and vests in the personal representative of the said deceased. And take notice that in default of your failing to acknowledge service of the citation and accepting and extracting letters of administration in the estate (*name of decessa*) our Court will proceed to grant letters of administration of the estate to (*name of citor*), your absence notwithstanding.

Dated at (*address*) this day of 20 .

Issued at the instance of Registrar

(*name of citor*)

The Registry is at (*address*) telephone number , fax . The office is open between 9:00 a.m. to 4:00 p.m. Mondays to Thursdays and 9:00 a.m. to 3:00 p.m. on Fridays except Public Holidays.

FORM P25: CITATION, BY EXECUTOR OF EXECUTOR, AGAINST EXECUTOR TO WHOM POWER WAS RESERVED, TO ACCEPT OR REFUSE PROBATE

Rule 66(2)

The Eastern Caribbean Sureme Court

IN THE HIGH COURT OF JUSTICE

[*State/Territory*]

In the Estate of *(full names)* late of *(address)*, deceased.

To *(full names cf cite)*, of *(address)*

WHEREAS it appears by the [affidavit] [affirmation] of *(full names cf citor)* [sworn] [affirmed] the day of 20 , that probate of the will of *(full names)*, late of *(address)*, deceased, was on the day of 19/20 , granted by our High Court of Justice at the registry to *(full names cf proving executor)*, one of the executors named therein, power being reserved of making a like grant to *(name cf cite)* the other executor named therein, and

WHEREAS it further appears by the said [affidavit] [affirmation] that the said *(name cf proving executor)* died on the day of 19/20 , leaving part of the estate of the said deceased unadministered and that on the day of 19/20 , probate of the will of the said *(full name cf proving executor)*; deceased was granted by our Court at the registry to the said *(full name cf citor)*, the sole executor thereof:

Now this is to command you the said *(full name cf citee)* that within 14 days after service hereof on you, inclusive of the day of such service, you do file an acknowledgment of service at the registry and accept or refuse probate of the will of the said *(full names)*, deceased. And take notice that, in default of your failing acknowledge service of the citation and accepting and extracting probate of the said will, your rights as such executor will wholly cease, and the representation to the said *(full names)*, deceased, will devolve as if you had not been appointed executor.

Dated at *(address) this* day of 20 .

Issued at the instance

of Registrar

(name cf citor)

**FORM P26: CITATION TO TAKE PROBATE AGAINST AN EXECUTOR
WHO HAS INTERMEDDLED**

Rule 66(3)

The Eastern Caribbean Sureme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased.

To *(full names cf cite)*, of *(address)*

WHEREAS it appears by the [affidavit] [affirmation] of *(full names cf citor)* [sworn] [affirmed] the day of 20 , that *(full names cf deceasea)*, late of *(address)*, died on the day of 19/20 , domiciled in *(state territory)* having made and duly executed his or her last will and testament [and codicil] dated the day of 19/20 , and thereof appointed you *(name cf cite)*, sole executor *(or last surviving executor as the case may be)*. And that *(name cf citor)* is interested in the estate of the deceased under the said will [and codicil] and

WHEREAS it is alleged in the [affidavit] [affirmation] of *(name cf citor)* that you *(name cf cite)* have intermeddled in the estate of the deceased.

Now this is to command you *(name cf cite)* that within 14 days after service hereof on you, inclusive of the day of such service, you file an acknowledgement of service to the citation in the Registry and show cause why you should not be ordered to take probate of the will.

Dated at *(address)* this day of 20 .

Issued at the instance of Registrar

(name cf citor)

FORM P27: CITATION TO PROBATE WILL*Rule 69(1)***The Eastern Caribbean Sureme Court****IN THE HIGH COURT OF JUSTICE***[State/Territory]*In the Estate of *(full names)* late of *(address)*, deceased.To *(full names cf cite)*, of *(address)*

WHEREAS it appears by the [affidavit] [affirmation] of *(full names cf citor)* [sworn] [affirmed] the day of 20 , that *(full names)* deceased, late of *(address)* died on the day of 19/20 domiciled in *(state/territory)*, leaving *(state the name cf the citor and his or her entitlement to the grant, e.g. his or her residuary legatee and devisee)* and the person entitled to his or her estate, and

WHEREAS it appears by the said [affidavit] [affirmation] that the deceased left a certain paper writing purporting to be a will whereby he appointed you the said *(name cf cite, and state status cf citor e.g. executor or residuary, legatee and devisee, as the case may be)*.

Now this is to command you *(name cf citee)* that within 14 days after service hereof on you, inclusive of the day of such service, you filed an acknowledgment of service in the registry and propound the said paper writing should you think it for your interest so to do, or show cause why letters of administration of all the estate which by law devolves to and vests in the personal representative of the said decease should not be granted to *(name cf citor)*. And take notice that in default of your failing to acknowledge service of the citation and doing as aforesaid our Court will proceed to grant letters of administration of the estate to *(name cf citor)*, your absence notwithstanding.

Dated at *(address) this* day of 20 .

Issued at the instance of Registrar

(name cf citor)

The Registry is at (address) telephone number , fax . The office is open between 9:00 a.m. to 4:00 p.m. Mondays to Thursdays and 9:00 a.m. to 3:00 p.m. on Fridays except Public Holidays.

FORM P28: WITNESS SUMMONS TO BRING IN WILL

Rule 73(3)

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

In the Estate of *(full names)* late of *(address)*, deceased

WITNESS SUMMONS

To *(Witness' full names)*

Of *(Witness' address)*

WHEREAS it appears from the affidavit of *(full names)* of *(address)* that you have in your possession, power or control a document being or purporting to be the [will] [codicil] *(specify other testamentary document)* of *(full names cf decessa)* *(state, if known, the date cf the will etc.)*

You are summoned to attend at the Registry at the High Court at *(address)* within 8 days after the service of this summons and bring in and leave at the registry the said original document.

If the document is not in your possession, power or control you must within 8 days after service of this summons file at the registry an affidavit to that effect stating what knowledge you have of the document and of in whose possession, power or control it may now be.

IF YOU DO NOT COMPLY WITH THIS SUMMONS YOU WILL BE GUILTY OF CONTEMPT OF COURT AND MAY BE IMPRISONED

(SEAL)

DAIED

This summons was issued on the application of (*full names*) whose Attorney-at-Law is of
Tel. Fax.

The Registry is at (*address*) telephone number , fax . The office is
open between 9:00 a.m. to 4:00 p.m. Mondays to Thursdays and 9:00 a.m. to 3:00 p.m. on Fridays
except Public Holidays.

Made this 29th day of September, 2017.

Hon. Dame Janice M. Pereira,
Chief Justice.

Davidson K. Baptiste,
Justice of Appeal.

Francis Belle,
High Court Judge.