



In The Supreme Court of Bermuda

Ref. A/50

Friday, 27th July 2012

CIRCULAR NO. 13 of 2012

TO ALL ATTORNEYS

APPLICATION FOR GRANTS OF PROBATE, LETTERS OF ADMINISTRATION, LETTERS OF ADMINISTRATION WITH WILL ANNEXED AND AFFIDAVITS OF VALUE

The Registry receives applications for Grants of Probate, Letters of Administration, etc., in various formats and standards. To avoid unnecessary delay, costs and requests for amended documents in estate matters, please ensure that applications are made in accordance with the following Court approved standards and formats.

Applications will pend until such time as they are corrected You may refer to any of the following to assist in your preparation of the application: Tristram and Cootes, the relevant Acts, the Judicial Department's website and/or Michael J. Mello QC's book, "The Law of Wills and Estates in Bermuda", 6th edition and greater.

1. NOTICES:

- Notices must be presented with all information as appearing in the newspaper for the time being approved as the Gazette. This will be. the content of the Notice, the name of the Official Gazette and the date on which the Notice was published.
- All Notices required by the Administration of Estates Act 1974 (the "Act"), the Non-Contentious Probate Rules 1974 (the "Rules" and other Court Circulars ("Circulars")) must be lodged in support of the application.
- The original Notice is preferred, however, certified (reduced-size) photocopies (see example), or certified copies of the page with the Notice from the on-line version of the Official Gazette with the relevant Notice highlighted, are acceptable.
- Notices or portions of Notices with or without the name and date of the Official Gazette attached are no longer acceptable (see example). Typed or handwritten information (such as the date published and the name of the Official Gazette) are no longer acceptable (see example).

2. JURATS:

- Jurats sworn in Hamilton, Bermuda, must state either “in the City” of Hamilton or Hamilton Parish, Bermuda.
- Jurats sworn overseas must contain “in the City of” or “in the town of” (as applicable) in the narrative.

3. NAMES OF THE DECEASED AND EXECUTORS – All the names of the Deceased on the supporting documents must be consistent with the names in the Will and/or Codicils (see Circular No. 9 of 2005 paragraph 5). If the name of an Executor appearing in the Will of the Deceased is different from his full and proper name, then the same shall apply to the named Executor. If there is any discrepancy regarding the name of the Deceased or Executor, then, an explanation must be made to the Registrar in the supporting Oath for Grant or otherwise as the Registrar shall direct.

4. DELAY – If there is a delay of more than 12 months between the date of the Deceased's death and the date of filing the application, a reasonable explanation for the delay must be made to the Registrar before the application will be considered.

5. FORM FOR APPLICATION FOR GRANTS (sample attached):

- Applications should follow the format of Form 1 in the Rules. The form may be found within the website www.judiciary.gov.bm.
- Documents lodged in support of the Application:
 - Primary Family Homestead Exemption Certificates: the original of the certificate is preferred; a certified copy is acceptable.
 - If the Deceased is widowed and to comply with the clearing off requirement, please provide a certified copy of the death certificate of the spouse.
 - Attorneys are reminded that they are required to provide certified copies of birth/and or marriage certificates of the Applicant(s) as they relate to the relationship with the Deceased (see Circular No. 11 of 2007 paragraphs 6 & 7).
- Property valuations lodged in support of the Application:
 - Where applications are prepared and submitted by a registered barrister and attorney or registered associate, an original of the valuation with the appropriate stamp duty affixed should be lodged and is preferable; however a copy certified by a Commissioner for Oaths or a Justice of the Peace will be accepted.
 - Applications prepared and submitted by applicants personally who are entitled to a grant must lodge the original of the valuation with the appropriate stamp duty affixed.
 - All property valuations lodged with the Court must be prepared and the appropriate revenue stamp affixed by a Bermuda Registered Surveyor (see paragraph 7 below).

6. FORM FOR AN OATH FOR A GRANT OF PROBATE, GRANT OF LETTERS OF ADMINISTRATION, GRANT OF LETTERS OF ADMINISTRATION WITH WILL ANNEXED (samples attached):

- Oaths should follow the format in the Court-approved form which may be found in the Probate Guide under Publications within the website www.judiciary.gov.bm.
- The Gross Value in the Oath must agree with the Gross Value listed in the Affidavit of Value. Any joint and life interest exceptions should be included as well.

7. FORM FOR AN AFFIDAVIT OF VALUE (sample attached) – Affidavits of Value should follow the format in the Court-approved form which may be found within the website www.judiciary.gov.bm.

- **Gross Value:** the Gross Value in the Oath must agree with the Gross Value listed in the Affidavit of Value. Any joint and life interest exceptions should be included as well.
- **Foreign Currency Assets and Deductions:** For purposes of Resealing a Grant in another jurisdiction, it is recommended that foreign assets be listed. However, as the Grant issued by the Supreme Court is reflective of net Bermuda Dollar assets, please group and total foreign currency assets separately from Bermuda Dollar assets. Foreign currency assets are deductible and must also be listed as such.
- **Real Property –** Where real property forms part of the estate, Property Schedules must be exhibited to Affidavits of Value. The Court approved form may be found within the website www.judiciary.gov.bm. Real properties of the Deceased must be valued by a Registered Surveyor (pursuant with the Professional Surveyors Registration Act 1997 and Regulations 2001) at 'open market value' as at the date of the Deceased's death (see Circular No. 3 of 1996) and the requisite revenue stamp affixed **SAVE AND EXCEPT** THAT formal valuations by a Registered Surveyor are NOT required to be lodged with the Court for real properties that are the subject of Primary Family Homestead Exception Certificates where the applicants' opinion of value in the Affidavit of Value is based upon an insured or other such valuation.
- **Calculation –** It is the practice of the Supreme Court Registry to calculate to 3 (three) decimal places. If the third decimal place is .005 or greater round up the second decimal place. (Example: if the calculation is \$1,519.015, the listed amount is \$1,519.02. If the calculation is \$1,519.014, the listed amount is \$1,519.01.)
- Any joint and life interest exceptions should be mentioned.

8. REGISTRAR'S AUTHORITY - The Court has inherent jurisdiction which empowers the Court to regulate and control its own process. Accordingly, where there are any applications where it appears doubtful whether an application for grant should or should not be made or where any question arises in relation to a grant or an

application for a grant, then the Registrar may request further information and/or documentation from the applicant (Rule 4 of the Rules). Where such a request of the Registrar is not complied with or is not to the Registrar's satisfaction, then the Registrar will refer the application to the Court for directions pursuant to the provisions of section 5(3) of the Act.

Dated this 27th day of July 2012.



REGISTRAR

CAS/dns



Bermuda Sun

APRIL 4, 2012

IN THE SUPREME COURT OF BERMUDA PROBATE JURISDICTION
In the Estate of [redacted] deceased
NOTICE IS HEREBY GIVEN that [redacted] Bermuda intends to apply to the Supreme Court of Bermuda for a Grant of Letters of Administration in the estate of [redacted] and that such Application may be granted, unless within fifteen days of the date of this notice a caveat shall be entered in the Registry of the Supreme Court, Hamilton, by any person objecting to such Grant.
Dated 4 April 2012
[redacted] Attorneys for the Administrator

APRIL 11, 2012

IN THE SUPREME COURT OF BERMUDA PROBATE JURISDICTION
In the Estate of [redacted] deceased
NOTICE IS HEREBY GIVEN that [redacted] Bermuda intends to apply to the Supreme Court of Bermuda for a Grant of Letters of Administration in the estate of [redacted] and that such Application may be granted, unless within fifteen days of the date of this notice a caveat shall be entered in the Registry of the Supreme Court, Hamilton, by any person objecting to such Grant.
Dated 4 April 2012
[redacted] Attorneys for the Administrator

APRIL 18, 2012

IN THE SUPREME COURT OF BERMUDA PROBATE JURISDICTION
In the Estate of [redacted] deceased
NOTICE IS HEREBY GIVEN that [redacted] Bermuda intends to apply to the Supreme Court of Bermuda for a Grant of Letters of Administration in the estate of [redacted] and that such Application may be granted, unless within fifteen days of the date of this notice a caveat shall be entered in the Registry of the Supreme Court, Hamilton, by any person objecting to such Grant.
Dated 4 April 2012
[redacted] Attorneys for the Administrator

NO LONGER ACCEPTABLE

APPLICATION FORM: For Grant of Probate, Grant of Letters of Administration or Certificate in Lieu of Grant (see footnotes for directions)

IN THE SUPREME COURT OF BERMUDA

PROBATE JURISDICTION

APPLICATION FOR A ¹

IN THE ESTATE OF ² , DECEASED

Application is hereby made by ³ of Parish in the Islands of Bermuda, for a ⁴ .

The documents and papers lodged in support of this application are:- ⁵

- (1) Oath
- (2) Affidavit of Value
- (3) Death Certificate of the Deceased (Marriage or Birth Certificates if required; list separately.)
- (4) Will (and Codicil if any)
- (5) Proof of compliance with Official Gazette Notices
- (6) (Insert any other documents to be lodged in support of the Application such as a Primary Family Homestead Certificate, Property Schedules, etc.)

DATED this day of 20 .

Signature of Applicant

APPLICATION

- ¹ Type of Application
Certificate in Lieu of Grant
Grant of Probate
Grant of Letters of Administration

OATH FORM: For use in Probate Applications where there is a Will (see footnotes for directions)

IN THE SUPREME COURT OF BERMUDA

PROBATE JURISDICTION

OATH FOR A GRANT OF PROBATE

IN THE ESTATE OF ¹ _____, DECEASED

I, ² _____ of _____ Parish in the Islands of Bermuda, make oath and say that I believe the paper writing now produced to and marked by me to contain the true and original last Will and Testament of ³ _____ of _____ Parish in the said Islands, who died on the ⁴ _____ day of _____, at ⁵ _____ Parish in the said Islands, domiciled in Bermuda, that no minority or life interest arises under the Will, and that I am the ⁶ named in the said Will; that I will

- (i) collect, get in and administer according to law the real and personal estate of the said deceased;
- (ii) when required to do so by the Court, exhibit in the Court a full inventory of the said estate and render an account hereof to the Court; and
- (iii) when required to do so by the Supreme Court, deliver up to that Court the ⁷ Grant of Probate.

That the gross value of the said estate amounts to the sum of \$ ⁸ _____ and no more, to the best of my knowledge, information and belief.

SWORN by the above named)

in the City of Hamilton in the)

Islands of Bermuda this ⁹ _____)

day of _____ 20 _____)

BEFORE ME:

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A COMMISSIONER FOR TAKING
AFFIDAVITS, AFFIRMATIONS AND
DECLARATIONS IN THE SUPREME
COURT OF BERMUDA

OATH FOR A GRANT OF PROBATE

- 1 Name of Deceased
- 2 Name and address of Executor, Administrator or Lawful Attorney
- 3 Name and address of Deceased
- 4 Date of Death
- 5 Place of Death
- 6 The sole, one of the Executor(s)
- 7 Grant of Probate
- 8 Gross value of the Estate
- 9 Signature of Executor(s)
- 10 Signature of Commissioner

OATH FORM: For use in Probate Applications where there is a Will but the named executors are dead or have renounced or where there is someone applying pursuant to a Power of Attorney (see footnotes for directions).

IN THE SUPREME COURT OF BERMUDA

PROBATE JURISDICTION

OATH FOR A GRANT OF LETTERS OF ADMINISTRATION WITH WILL ANNEXED

IN THE ESTATE OF ¹ , DECEASED

I, ² of Parish in the Islands of Bermuda, make oath and say that I believe the paper writing now produced to and marked by me to contain the true and original last Will and testament of ³ of Parish in the said Islands, who died on the ⁴ day of ⁷ ⁸, at ⁵ Parish in the said Islands, domiciled in Bermuda, ⁶ a That I am the lawful ¹⁰ the said deceased appointed the Executor, who has ⁹ of the said deceased that I will collect, get in and administer according to law the real and personal estate of the said deceased;

(i) when required to do so by the Court, exhibit in the Court a full inventory of the said estate and render an account thereof to the Court; and

(ii) when required to do so by the Supreme Court, deliver up to that Court the ¹¹

That the gross value of the said estate amounts to the sum of \$ ¹² and no more, to the best of my knowledge, information and belief.

SWORN by the above named)

in the City of Hamilton in the)

Islands of Bermuda this) ¹³

day of 20) _____

BEFORE ME:¹⁴

A COMMISSIONER FOR TAKING
AFFIDAVITS, AFFIRMATIONS AND
DECLARATIONS IN THE SUPREME
COURT OF BERMUDA

OATH FORM: For use in Applications for Letters of Administration or Certificate in Lieu of Grant where there is no Will (see footnotes for directions)

IN THE SUPREME COURT OF BERMUDA
PROBATE JURISDICTION
OATH FOR A GRANT OF LETTERS OF ADMINISTRATION
IN THE ESTATE OF ¹ , DECEASED

I, ² of Parish in the Islands of Bermuda, make oath and say that ³
of Parish in the said Islands, died on the ⁴ day of
, at ⁵ Parish in the said Islands, domiciled in Bermuda, ⁶
intestate, and that no minority or life interest arises under the intestacy; that I am the lawful ⁷
of the said deceased and the person now entitled to the estate of the said
deceased; that I will

- (i) collect, get in and administer according to law the real and personal estate of the said deceased;
- (ii) when required to do so by the Court, exhibit in the Court a full inventory of the said estate and render an account thereof to the Court; and
- (iii) when required to do so by the Supreme Court, deliver up to that Court the ⁸ ;

That the gross value of the said estate amounts to the sum of \$ ⁹ and no more, to the best of my knowledge, information and belief.

SWORN by the above named)
in the City of Hamilton in the)
Islands of Bermuda this) ¹⁰
day of 20) _____

BEFORE ME:
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A COMMISSIONER FOR TAKING
AFFIDAVITS, AFFIRMATIONS AND
DECLARATIONS IN THE SUPREME
COURT OF BERMUDA

OATH FOR A GRANT OF LETTERS OF ADMINISTRATION

- 1 Name of Deceased
- 2 Name and address of Administrators
- 3 Name and address of deceased
- 4 Date of Death
- 5 Place of Death
- 6 Marital status – Spinster, Bachelor, widow, widower, married or divorced
- 7 The person entitled to apply in order of priority and clearing off
 - (i) surviving spouse
 - (ii) children of the deceased or the issue of any such child (see Children Amendment Act 2002 S.18)
 - (ii) Father or mother of the deceased
 - (iv) Brothers and sisters of the whole blood, or issue of any deceased brother or sister
- 8 Grant of Letters of Administration
- 9 Gross value of estate
- 10 Signature of Administrator
- 11 Signature of Commissioner

AFFIDAVIT OF VALUE FORM for use by executor(s) or administrator(s) as case may be (see footnotes for direction)

IN THE SUPREME COURT OF BERMUDA

PROBATE JURISDICTION

AFFIDAVIT OF VALUE

IN THE ESTATE OF ¹ _____, DECEASED

- I, ² _____ of _____ Parish in the Islands of Bermuda, make oath and say as follows:-
1. I am the ³ _____ of the said deceased, who died on the ⁴ _____ day of _____.
 2. That for the purposes of Section 47 of the Stamp Duties Act 1976, the assets of the deceased's estate are comprised as follows:

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3. That pursuant to Section 48 of the Stamp Duties Act 1976 the following deductions may be made from the gross value of the estate of the deceased:

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[Item 4: Use following paragraphs if applicable:]

- 4.1 That pursuant to Item 2 of the Schedule to the Stamp Duties Act 1976, I claim exemption from Stamp Duty for the first \$100,000* of the estate.
- 4.2 That pursuant to section 47A of the Stamp Duties Act, 1976 (as amended), I claim exemption from Estate Stamp Duty in the amount of \$_____.00 for the real property situate at _____ Parish in the said Islands, which was designated as the Primary Family Homestead pursuant to Certificate # _____ dated the ____ day of _____ 20__ submitted in support of this application.
- 4.3 That pursuant to section 48(1)(b) of the Stamp Duties Act 1976 (as amended), I claim exemption from Estate Stamp Duty in the amount of \$_____.00 for the value of the benefit left to the surviving spouse of the deceased.

5. That I believe and ask for the Registrar's Certificate that the value of the deceased's Bermuda estate, after deductions, exemptions of Stamp Duty Payable there out are as follows:

Gross Estate	\$	_____
Liabilities and Deductions	\$	_____
Net Estate	\$	_____
Exemption	\$	\$100,000.00*

<u>Stamp Duty calculation*</u>		
First \$100,000 exempt	\$	0.00
5% on next \$100,000	\$	5,000.00
10% on next \$800,000	\$	_____
15% on next \$1,000,000	\$	_____
20% on balance thereafter of	\$	_____
Total Stamp Duty payable	\$	_____

SWORN by the above named)
in the City of Hamilton in the)
Islands of Bermuda this) 7
day of) 20) _____

BEFORE ME:

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A COMMISSIONER FOR TAKING
AFFIDAVITS, AFFIRMATIONS AND
DECLARATIONS IN THE SUPREME
COURT OF BERMUDA.

AFFIDAVIT OF VALUE

- 1 Name of Deceased
- 2 Name and address of Executor, Administrator or Lawful Attorney
- 3 Executor, Administrator or Lawful Attorney
- 4 Date of Death
- 5 List of Assets – Bermuda real estate, personal property etc
- 6 List of deductions
 - reasonable funeral and associated expenses
 - value of any legacy or other benefit to a surviving spouse
 - Primary Family Homestead
 - bequest to charities registered
 - all debts and in cumbrances incurred or created by the deceased bona fide for full

FORM OF ADVERTISEMENT

IN THE SUPREME COURT OF BERMUDA
PROBATE JURISDICTION
IN THE ESTATE OF [blank]¹ DECEASED

NOTICE FOR KIN

NOTICE is hereby given that [blank]² of [blank]³ Parish in the Islands of Bermuda and [blank]² of [blank]³ Parish in the said Islands intend to apply to the Supreme Court of Bermuda for [blank]⁴ in the estate of the above-named deceased. Any person having or who may have a beneficial interest in the estate of the above-named deceased because of their relationship to the above-named deceased by blood, should inform the undersigned within thirty (30) days of the date hereof after which date the undersigned will proceed to distribute the estate of the above-named deceased amongst the known persons entitled thereto.

¹ Full Name of the Deceased

² Full Name of Applicant

³ Full Address of Applicant

⁴ Probate or Administration

