

MONTSERRAT

STATUTORY RULES AND ORDERS

S.R.O. 2 OF 2018

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

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EASTERN CARIBBEAN SUPREME COURT (NON-CONTENTIOUS
PROBATE AND ADMINISTRATION OF ESTATES)

THE EASTERN CARIBBEAN SUPREME COURT (NON-CONTENTIOUS
PROBATE AND ADMINISTRATION OF ESTATES) MADE BY THE CHIEF
JUSTICE AND TWO OTHER JUDGES OF THE SUPREME COURT UNDER
SECTION 17 OF THE SUPREME COURT ORDER 1967 (S.I. 1967 No. 223).

1. Citation and commencement

- (1) These Rules may be cited as the Eastern Caribbean Supreme Court (Non-Contentious Probate and Administration of Estates) Rules, 2018 and come into force on 1 February 2018.
- (2) Subject to any direction given by a judge or the 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—

“**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 an officer of the registry who is for the time being authorised to administer an oath or take an affidavit required for any purpose connected with his or her duties and includes where the context so admits, the resealing of grants and, in the case of Saint Lucia, includes an *ex officio* commissioner as provided for by section 85 of the Supreme Court Order, Cap 2.01;

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

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

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“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 estate 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;
- (d) Grenada;
- (e) Montserrat;
- (f) Saint Christopher and Nevis;
- (g) Saint Lucia;
- (h) Saint Vincent and The Grenadines; or
- (i) Territory of the Virgin Islands;

“registrar” means the registrar of the High Court in a Member State;

“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;

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“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 similarly numbered in the Schedule, with 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.

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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 an 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
 - (d) 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;
 - (d) 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;
 - (f) an affidavit of due execution of the will in the form and manner prescribed by rule 17(1), or if 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;

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- (h)* the appropriate affidavit under rule 22, if required; and
 - (i)* a certificate from the Commissioner of Inland Revenue or relevant authority that the duty has been paid or a letter stating that satisfactory arrangements have been made for the payment of duty, if an enactment in a Member State requires payment of stamp duty, estate duty or succession duty.
- (2)** If, 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 executor or executors to whom power is to be reserved.
- (3)** If 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;

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- (d)* 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;
 - (f)* an affidavit of due execution of the will of the deceased in the form and manner prescribed by rule 17(1), or if 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 or relevant authority that the duty has been paid or a letter stating that satisfactory arrangements have been made for the payment of duty, if an 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, if a deceased left a will, is to be determined in accordance with the following order of priority—

- (a)* the executor;

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- (b) any residuary devisee or legatee holding in trust for any person;
- (c) any other residuary devisee or legatee;
- (d) any devisee or legatee holding in trust for any other person;
- (e) any devisee or legatee;
- (f) 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, if 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—

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- (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;
- (d) 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;
- (f) if required, the appropriate affidavit or affidavits under rule 22;
- (g) a certificate from the Commissioner of Inland Revenue or relevant authority that the duty has been paid or a letter stating that satisfactory arrangements have been made for the payment of duty, if an 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
 - (d) 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, if 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—

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- (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;
 - (d) 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;
 - (f) 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—

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- (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

If 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 State¹, 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, 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

¹ 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. 3.06)
St Christopher & Nevis - Administration of Small Estates Act Cap. 4
St Lucia - Administration of Small Successions Act Cap 4.12
St Vincent & the Grenadines - Administration of Small Estates Act Cap. 488

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- (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 wills shall be given to the court—

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

If 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 of blind or illiterate testator*

Before admitting to proof 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

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satisfy itself by evidence on affidavit that the testator had such knowledge.

(3) *Wills of soldiers and sailors*

If the deceased died domiciled in a 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 applies², the will may be admitted to proof without an affidavit of due execution if—

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

- (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*

If the deceased died domiciled in Saint Lucia and it appears to the court that there is prima facie evidence that a will is one to 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*

If 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. 294, section 22(1)(e) of Saint Vincent and the Grenadines and The Mental Health Act, Cap. 131 of the Territory of the Virgin Islands, rule 17(1)

² 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 3.08), s.11 and Wills (Soldiers and Sailors) Act (Cap. 85), s.5
St Christopher & Nevis, - Wills Act Cap. 495, s.13
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

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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*

If 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. Marking 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.

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- (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 such 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) If 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) If 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

If 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*

If 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

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- (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*

If 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*

If 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 incorporation of the document as seems fit.

(4) *Affidavit of date of execution of will*

If a will or codicil is undated or 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*

If 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*

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

(7) *Affidavit of foreign law*

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If evidence of foreign law is required on an application for a grant, the court may accept an affidavit from an attorney-at-law 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) If 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 to probate on attaining the age of eighteen 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) If 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

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fourteen 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 an 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) If, 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 fourteen days' notice in writing to the other executors who have not renounced their right to a grant of probate before applying for the grant;
 - (b) 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) If 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 twenty-eight 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.

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- (2) If 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, if 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) If 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) If 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) If 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) if there is no person so entrusted, to the person beneficially entitled to the estate by the law of the place where the

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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

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;
- (d) the certified copy of the power of attorney if 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);
- (f) if the will is required to be proved, a filed copy of the affidavit of the facts relied upon under rule 30(3)(g) and (h); and
- (g) if 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 State³ may be made by—

³ Anguilla, St. Christopher & Nevis - Probates (Resealing) Act Cap. 62
Antigua & Barbuda - Probates (Resealing) Act Cap. 344
Territory of the Virgin Islands - Probates (Resealing) Act Cap. 60
Dominica - Probates (Resealing) Act Ch. 9:02
Grenada - Probate Act Cap. 255

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- (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 seven 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;
 - (d) a copy of the advertisement under paragraph (2);
 - (e) if the application to reseal a grant is made more than three years after the death of the deceased, an affidavit explaining the delay;
 - (f) 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) if 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

Montserrat	- Probates (Resealing) Act (Cap. 3:09)
St. Lucia	- Civil Code, Chap 4:01, Art 1152, 1152A and 1152B
St Vincent & the Grenadines	- Probates (Resealing) Act Cap. 492

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- (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) If 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 if 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) If 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;

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- (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
 - (d) 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) if 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 applies 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, if 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.

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- (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) If 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) If 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 a 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;
 - (iii) that the applicant will collect, get in and administer according to law the real and personal estate of the deceased, and in the case of Saint Lucia movables and immovables, limited until a further grant is made or in such other way as the court may direct; and
- (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 if a person who is a citizen or subject of a foreign country to which the laws governing consular conventions of the respective Member State⁴ applies and—

⁴ 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 Consular Officers Act (Cap. 3.06) 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. 4.13 Consular Conventions Act Cap. 10.10

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- (a) dies leaving property within that Member State; and
 - (b) there is no person present 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—

- (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 relevant 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
- (d) 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.

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37. Grant on behalf of a minor

- (1) If 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 eighteen 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) If there is only one person competent and willing to take a grant under paragraphs (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) If 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 eighteen years and 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) If 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 executor or executors who shall be entitled to apply for a grant of probate on attaining the age of eighteen years.
- (2) If 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

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a grant of letters of administration under rule 9 or under rule 13, as the case may be, including—

- (a) if relevant, a filed copy of the order of 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 if 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 the 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—

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- (a) to a person authorised under the Mental Health Act or any other relevant statutory authority of the relevant Member State⁵;
- (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) if 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;
 - (c) the authority or entitlement of the applicant to apply for the grant on behalf of the incapable person; and
 - (d) 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.

⁵

Eastern Caribbean Territories (except Dominica, St. Lucia, St. Vincent & The Grenadines and the Territory of the Virgin Islands)	-	Supreme Court Act, s,7(2)
Territory of the Virgin Islands	-	Mental Health Act Cap. 294
Dominica	-	Mental Health Act Ch. 40:62
St. Lucia	-	Civil Code Chap 4:01, Art 285-296, Revised Laws of Saint Lucia.
St Vincent & The Grenadines	-	Mental Health Act Cap. 228

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42. How to apply for a grant for a physically 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;

shall, if the original will is not available, 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, if 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 that will; and
- (iii) in respect of a reconstruction of a will, the accuracy of that reconstruction.

(2) The court may—

- (a) require 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 be 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—

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- (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 applicant to the grant;
- (iii) the belief of the applicant that the paper writings now produced to and marked by him or her 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 be 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 State⁶ 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 under 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

⁶ Anguilla,)
Territory of the Virgin Islands,)
St. Christopher & Nevis,)
Dominica, Antigua & Barbuda,) - Supreme Court Act
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. 486, s.16

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letters of administration under rule 9 or under rule 13, as the case may be, subject to the following—

- (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) the limitations, if any, imposed by the court.
- (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.

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- (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 acts 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

If 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

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

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- (2) An application for an order for a grant under paragraph (1)(b) shall be made to the court supported by evidence on affidavit—
- (a) setting out the grounds for the application;
 - (b) stating whether the estate of the deceased is known to be insolvent; and
 - (c) showing if applicable, how a person entitled to a grant of the 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 if the application for the grant is made under paragraph (1)(b);
 - (b) if applicable, the terms of the will limiting the grant to the 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 failed or neglected to administer the deceased's estate;

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- (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;
 - (d) 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 if the applicant is a creditor, particulars and evidence of the deceased's indebtedness.
- (2) If 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.

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- (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 fail 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 if 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

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- (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) if there are other persons with a prior right to the grant, including an executor by representation, the appropriate clearing off;
 - (d) the reason or reasons for the failure of the original grantee to complete the administration of the estate;
 - (e) if 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;
 - (f) 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) if there are assets left to be administered that the original grantee failed to complete the administration of the estate.
- (4) If 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.

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57. How to apply for a cessate grant

- (1) An application for a cessate grant is made in circumstances if a previous grant has ceased to be effective.
- (2) Subject to paragraph (4), a person who seeks a cessate grant 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 rule 13, as the case may be, including—
 - (a) the original grant or if 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) if 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;
 - (d) 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
 - (f) the gross value of the unadministered estate to be covered by the grant.
- (4) If 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

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- (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 under 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 the 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) If 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 seven 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 satisfactorily 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).

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- (4) If 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, if 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 will 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 service⁷ 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 six 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.

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- (a) may be renewed for a further period of six 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 six months from the date on which it was due to expire except that any application for 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 as 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) require the caveator to file an acknowledgment 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 fourteen 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 immediately 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 fourteen days of service of the warning upon him or her, inclusive of the day of 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 has been disposed of unless a direction has been given under rule 62(3).
- (2) A caveator who has not filed an acknowledgment of service to a warning may at any time withdraw his or her caveat by giving

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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 acknowledgment 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 fourteen 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) If 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),
 - (c) shall cease to have effect.

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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 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) If 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 citee 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 fourteen 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 the 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.

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

- (1) A person who would be entitled to a grant in the event of the citee 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) If power to make a grant to an 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) If 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 or she 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 six 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 twenty-eight 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) If a person makes a citation under rule 66(1) and the citee has filed an acknowledgment of service but—
 - (a) has not applied for a grant under rule 66(7); or

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

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

(2) If 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 citee 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) If 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 citee for an order requiring the citee to take a grant within a specified time or for a grant to the citee 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

If 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—

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- (i) the executor in respect of whom power was reserved has been duly cited;
 - (ii) the 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 fourteen days from service of the citation.

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

If the citee has filed 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

If—

- (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.

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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 payable in the High Court in respect of non-contentious probate proceedings and administration of estates proceedings filed under these Rules shall be in accordance with the fees specified in Schedule 4 of the Eastern Caribbean Supreme Court (Court Proceedings Fees) Rules, 2017.

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SCHEDULE

(Rule 4)

FORM P1: APPLICATION FOR GRANT

(Rules 7(1), 8(1)(a), 9(1)(a) and 13(1)(a))

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)* -

(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 Attorney-at-Law/Propounder/Administrator

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The Registry is at (*address*), telephone number _____, fax _____.
The office is open between 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public
Holidays.

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FORM P2: NOTICE OF APPLICATION

(Rules 7(1) and 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 NOTICE that I/we intend to apply to the (registrar)(judge) at the High Court, (address) on the day of 19/20 , at a.m./p.m. for –

- (a) Directions
- (b) An order that *(set out terms of order sought)*

The grounds of this application are –
(set out grounds of 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

Attorney-at-Law/Propounder/Administrator

The applicant's address for service is:

The Registry is at *(address)*, telephone number , fax .
The office is open between 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public Holidays.

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

FORM P3: OATH 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] *(name of 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.

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

**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 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) 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) 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 without having taken 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 marked "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.

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

FORM 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

(full names of administrator) of *(address)* *(occupation)*

(full names of administrator) of *(address)* *(occupation)*

(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 intestate 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), .e.g. "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 the *(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 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.

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

- (8) 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 Attorney-at-Law /
Administrator whose address for service is

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

FORM P6: DECLARATION AND ACCOUNT OF ESTATE

(Rules 8(1)(g), 9(1)(g), 13(1)(e), 30(3)(f), 52(4)(a), 56(2)(c), 57(2)(c) and 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 of deceased)* 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 of deceased)* made and exhibited upon by virtue of the oath of the same *(full name(s) of 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 of company or companies and number in each)</i>	
Household goods, furniture, plate, linen, china, jewellery, etc.	
Policies of Insurance <i>(name of 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, namely: (a) Funeral expenses \$ (b) Bona fide debts \$	
Total Value	\$

This Declarant 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.

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

On the day of 20 the said (*full name(s) of 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)

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

FORM P6A: DECLARATION AND ACCOUNT OF ESTATE

(Rules 8(1)(g), 9(1)(g), 13(1)(e), 30(3)(f), 52(4)(a), 56(2)(c), 57(2)(c) and 58(1)(c))

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

The Territory of 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 of deceased)* 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 of deceased)* made and exhibited upon by virtue of the oath of the same *(full name(s) of personal representative(s))*.

(a)	Below \$50,000
(b)	\$50,001 - \$250,000
(c)	\$250,001 - \$500,000
(d)	\$500,001 - \$1,000,000
(e)	\$1,000,001 - \$5,000,000
(f)	Over \$5,000,000

This Declarant 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) of personal representative(s))* to the truth of the above Declaration at *(address)* was duly sworn/affirmed in *(state/territory)*

Before me,

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

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

.....
Declarant(s)

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

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 a 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 Attorney-at Law/Propounder/Administrator whose
address for service is

[FIRST / SECOND PUBLICATION]

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

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

(1) I am one of the attesting witnesses 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 of 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 of 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

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

FORM P9: AFFIDAVIT AS TO HANDWRITING

(Rule 17(1)(b)(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)* of *(address)* *(occupation)* make oath and say [do solemnly and
sincerely affirm] that –

- (1) I knew and was well acquainted with the deceased *(full names)* late
of *(address)*, deceased who died on the day of 20 , for
(state period) prior to his or her death.
- (2) During the period I have frequently seen him or her write and also
sign his or her name so that I am well acquainted with the manner
and character of his or her handwriting and signature.
- (3) I have carefully perused and inspected the paper writing produced
to me marked “A”, purporting to be and contain the [last Will and
Testament] [codicil] of the said deceased dated the day of
19/20 .
- (4) I verily believe the signature (set out mode of signature) to the said
[will] [codicil] to be the true and proper handwriting and signature
of the said deceased.

Sworn/Affirmed
on the day
of 20
Before me,

(signed)

Commissioner for Oaths

Filed by
for service is

Attorneys-at-Law/Propounder whose address

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

FORM P10: MARKING OF WILL

(Rule 18(1)(a))

(a) Executor or Administrator's Oath

“A”

This is the paper writing referred to in the Oath of *(full names of executor(s)/administrator(s))* [sworn] [affirmed] the day of 20 as containing the true and original last Will and Testament [and codicil] of *(names of deceased)* late of *(address)* *(occupation of deceased)* bearing date the day of 19/20 and marked “A” for identification.

Signed: (executor(s)/administrator(s)) Signed: Notary Royal /Notary
Public /Commissioner for
Oaths

(b) Affidavit by attesting witness etc.

“A”

This is the paper writing referred to in the [affidavit] [affirmation] of *(full names of executor(s) or attesting witness)* [sworn] [affirmed] the day of 20 as containing the true and original last Will and Testament [and codicil] of *(name of deceased)* late of *(address)* *(occupation of deceased)* bearing date the day of 19/20 and marked “A” for identification.

Signed (deponent) *Signed*
Notary Royal /Notary Public
/Commissioner for Oaths

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

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 of 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 of 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 obliterations, 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
on the day
of 20
Before me,

(*signed*)

Commissioner for Oaths/Notary Public / Notary Royal

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

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

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

FORM P12: RENUNCIATION OF PROBATE

(Rule 23(1))

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

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

WHEREAS *(full names)*, late of *(address)*, deceased, died on the day of
19/20 and,

WHEREAS by his or her last Will and Testament [and codicil] dated the
day of 19/20 he appointed me/us *(full names of appointed*
executor(s)) of *(address)* executor(s) [and residuary legatee(s) and
devisee(s)]*

NOW I/We hereby DECLARE that I/We:

- (a) have not intermeddled in the estate of the said deceased; and
- (b) will not hereafter do so with intent to defraud creditors;

and I/We hereby renounce all my/our right and title to the probate and
execution of the said will [and to letters of administration with the said will
annexed of the estate of the said deceased].*

IN WITNESS WHEREOF I/We have set my/our hand(s) and seal(s) this
day of 20 .

Signed, sealed and delivered
by the said *(full names)* *(signed)*
in the presence of

(witness)

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

****These words must be included in the form where the executor is also
entitled in a lower character under rule 23(2) and has to be cleared off in
that character by the applicant for the grant.***

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

**FORM P13: RENUNCIATION OF ADMINISTRATION WITH WILL
ANNEXED**

(Rule 23(3))

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

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

WHEREAS *(full name)* late of *(address)*, deceased, died on the day of
19/20 , and

WHEREAS by his or her last Will and Testament [and codicil] dated the
day of 19/20 , he appointed me/us *(full names)* as residuary
legatee(s) and devisee(s) *(or as the case may be)*.

NOW I/We the said *(full names)* of *(address)* hereby DECLARE that I/We
hereby renounce all my/our right and title to a grant of letters of
administration with the will annexed of the estate of the deceased.

IN WITNESS WHEREOF I/We have set my/our hand(s) and seal(s) this
day of 20 .

Signed, sealed and delivered
by the said *(full names)*
in the presence of

(signed)

(witness)

Filed by
for service is

Attorney-at-Law/Administrator whose address

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

FORM P14: RENUNCIATION OF ADMINISTRATION

(Rule 23(3))

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

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

WHEREAS *(full names)* late of *(address)*, deceased, died on the day of
20 , intestate, and

WHEREAS I/We *(full names of renunciant(s))* of *(address)* am/are *(state
relationship to the deceased and capacity in which entitled to
administration)* of the deceased,

NOW I/We hereby renounce all my/our right and title to a grant of letters of
administration of the estate of the said deceased,

IN WITNESS WHEREOF I/We have set my/our hand(s) and seal(s) this
day of 20 .

Signed, sealed and delivered
by the said *(full names)*
in the presence of
(witness)

(signed)

Filed by
for service is

Attorney-at-Law/Administrator whose address

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

**FORM P15: NOTICE OF INTENTION TO MAKE APPLICATION
FOR GRANT**

(Rule 25(3))

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

(Probate)

[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 sole 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 of
applicant*) of the deceased, of [address] having died intestate on the
day of 19/20 .

Dated this day of 20 .

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

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

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

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

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 names of executor(s)/administrator(s))* and am authorised 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
on the day

(signed)

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

of 19/20
Before me,

Commissioner for Oaths/ Notary Public /Notary Royal /

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

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

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

(Rule 31(2) and (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 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

The nature of the application for amendment is -

Dated this day of 20 .

Filed by [] Attorney-at-Law/Propounder/Administrator whose address for service is []

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

FORM P19: APPLICATION FOR REVOCATION OF A GRANT

(Rule 31(4))

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 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 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 20 (without revoking
a will bearing the date of) day of 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 20

Dated this day of 20 .

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

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

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
- (b) if you have no contrary interest but wish to show cause against the sealing of a grant to such party, to issue and serve a notice of application for directions by the registrar.

If you fail to do either of these, the court may proceed to issue a grant of probate or letters of administration in the said estate notwithstanding your caveat.

Dated the day of 19/ 20 .

Issued at the instance of
[here set out the name and interest (including the date of the will or codicil, if any, under which the interest arises) of the party warning, the name of his or her Attorney-at-law and the address for service, if the party warning is acting in person this must be stated.]

Registrar

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

The Registry is at (*address*) telephone number _____, fax
The office is open between 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public
Holidays.

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

FORM P22: ACKNOWLEDGMENT OF SERVICE

(Rules 62(2), 65(8), 66(5) and 69(3))

The Eastern Caribbean Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

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

[Caveat no. dated the day of 20]

[Citation dated the day of 20]

Full names and address of person warning [or citor]

*(here set out the interest of the person warning or citor as shown in
the warning or citation)*

Full names and address of caveator [or person cited]

*(here set out the interest of the caveator or person cited, stating the date of
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 .

(signed)

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

This acknowledgement 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 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public
Holidays.

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

FORM P23: CITATION TO ACCEPT OR REFUSE PROBATE

(Rule 66(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 citee, of (address))*

WHEREAS it appears by the [affidavit] [affirmation] of *(full names of citor)* [sworn] [affirmed] the day of 20 , that *(full names of deceased)* 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 of citee)*, executor, and

WHEREAS it appears by the said [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 citee)* that within 14 days after service hereof on you, inclusive of the day of such service, you file an acknowledgement of service in 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 and vests 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)

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

The Registry is at (*address*) telephone number _____, fax
The office is open between 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public
Holidays.

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

**FORM P24: CITATION TO ACCEPT OR REFUSE
ADMINISTRATION**

(Rule 66(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 citee)* of *(address)*

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

Now this is to command you *(name of citee)* that within 14 days after service hereof on you, inclusive of the day of such service, you file an acknowledgement 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 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 of *(name of deceased)* 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)

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

The Registry is at (*address*) telephone number _____, fax
The office is open between 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public
Holidays.

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

**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 Supreme Court

IN THE HIGH COURT OF JUSTICE

[State/Territory]

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

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

WHEREAS it appears by the [affidavit] [affirmation] of *(full names of 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 of proving executor)*, one of the executors named therein, power being reserved of making a like grant to *(name of citee)* the other executor named therein, and

WHEREAS it further appears by the said [affidavit] [affirmation] that the said *(name of 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 of proving executor)*; deceased was granted by our Court at the registry to the said *(full name of citor)*, the sole executor thereof:

Now this is to command you the said *(full name of 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 to 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

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

(name of citor)

The Registry is at *(address)* telephone number _____, fax
The office is open between 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public
Holidays.

Montserrat

Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018

S.R.O. 2 of 2018

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

(Rule 66(3))

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 citee)*, of *(address)*

WHEREAS it appears by the [affidavit] [affirmation] of *(full names of citor)* [sworn] [affirmed] the day of , 20 , that *(full names of deceased)*, 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 of citee)*, sole executor *(or last surviving executor as the case may be)*. And that *(name of 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 of citor)* that you *(name of citee)* have intermeddled in the estate of the deceased.

Now this is to command you *(name of citee)* 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 , 19 /20 .

Issued at the instance

of

Registrar

(name of citor)

The Registry is at *(address)* telephone number , fax
The office is open between 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public
Holidays.

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

FORM P27: CITATION TO PROPOUND WILL

(Rule 69(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 citee)*, of *(address)*

WHEREAS it appears by the [affidavit] [affirmation] of *(full names of 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 of 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 of citee, and state status of citor e.g. executor or residuary, legatee and devisee, as the case may be)*.

Now this is to command you *(name of citee)* that within 14 days after service hereof on you, inclusive of the day of such service, you file an acknowledgement 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 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 doing as aforesaid 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)

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

The Registry is at (*address*) telephone number _____, fax
The office is open between 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public
Holidays.

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

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 of deceased)* *(state, if known, the date of 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)

DATED

Montserrat

**Eastern Caribbean Supreme Court (Non-Contentious Probate and
Administration of Estates) Rules, 2018**

S.R.O. 2 of 2018

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 8:00 a.m. and 3:30 p.m. Monday to Friday, except Public
Holidays.

Made this 10th day of January, 2018.

(Sgd.) Janice M Pereira
Chief Justice.

(Sgd.) Davidson Kelvin Baptiste
Justice of Appeal.

(Sgd.) Francis Belle
High Court Judge.

Published by exhibition by the Clerk of Cabinet at the Office of the Legislature,
Farara Plaza, Brades this 18th day of January, 2018.

(Sgd.) Marjorie Smith
CLERK OF CABINET