

## **WILLS AND PROBATE ACT**

### **CHAPTER 9:03**

#### **Ordinances**

**25 of 1945**

**and**

**34 of 1945**

Amended by

2 of 1972

28 of 1973

\*30 of 1975 (by implication)

\*47 of 1980

\*27 of 1981

\*28 of 2000

(\*See Note on page 2)

#### **Current Authorised Pages**

| <i>Pages</i><br><i>(inclusive)</i> | <i>Authorised</i><br><i>by L.R.O.</i> |
|------------------------------------|---------------------------------------|
| 1-79                               | ..                                    |

*L.R.O.*

### Note on Subsidiary Legislation

See Schedules to this Act for Subsidiary Legislation.

### Note on Act No. 30 of 1975

With respect to the execution of a Will for a “patient” as defined in the Mental Health Act (Ch. 28:02) — *See* sections 36, 37 and 38 of that Act.

### Note on Act No. 47 of 1980

Section 8 of Act No. 47 of 1980 provides as follows:

- “Increase of  
fines.  
[44 of 1979].
8. From the date of the coming into operation of the first Revised Edition of the Laws of Trinidad and Tobago under the Law Revision Act, 1979, any fine (within the meaning of paragraph 1 of the Second Schedule to the said Act) prescribed by a written law of Trinidad and Tobago not published in the said Revised Edition shall be increased in accordance with the provisions of paragraph 1(b), (c) and (d) of the Second Schedule to the said Act.”.

### Note on Act No. 27 of 1981

The Second Schedule to the Succession Act 1981 (Act No. 27 of 1981) purported to repeal the Wills and Probate Ordinance (Ch. 8. No. 2). However, only section 122 and Part VIII of the Succession Act have been brought into operation. The other Parts of the Act (i.e., Act No. 27 of 1981) and the Schedules thereto are yet to be brought into operation.

### Note on Part III of the Ordinance

#### Family Provision

#### Sections 89 to 93A (repealed by Act No. 28 of 2000)

The former sections 89 to 93A of the Ordinance were repealed and replaced by Schedule 2 to the Matrimonial Proceedings and Property Act, 1972 (Act No. 2 of 1972) as sections 89 to 93A. However, sections 89 to 93A were in turn repealed by Part III of the Distribution of Estates Act, 2000 (Act No. 28 of 2000).

*See* now Part VIII of the Succession Act, 1981 (Act No. 27 of 1981) (*viz.*, sections 94 to 111) which deals with the subject matter of family provision.

*See* also section 1(2) of Act No. 28 of 2000 with respect to a person dying after 25th September 2000.

**CHAPTER 9:03**

**WILLS AND PROBATE ACT**

ARRANGEMENT OF SECTIONS

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2. Interpretation.

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CHAPTER 9:03

WILLS AND PROBATE ACT

25 of 1945. **An Act relating to the execution of Wills and the granting of Probate and Letters of Administration.**

Commencement. [1ST SEPTEMBER 1939]

Short title. **1.** This Act may be cited as the Wills and Probate Act.

Interpretation. **2.** In this Act—

“administration” means, with reference to the estate of a deceased person, letters of administration, whether general or limited, or with the Will annexed or otherwise;

“administrator” means a person to whom administration is granted;

Ch. 9:01. “Administrator General” means the person appointed under the Administration of Estates Act;

“common form business” means the business of obtaining probate and administration where there is no contention as to the right thereto, including the granting of probates and administrations in contentious cases when the contest is terminated, and all business of a non-contentious nature to be taken in the Court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or administration;

“Court” means the Supreme Court, or a Judge thereof;

“estate” includes land and chattels real as well as other chattels and personalty, but the “estate” of a person deceased shall not be deemed to include any property of which the deceased died seised or possessed as a trustee only;

“estate duties” include any duty payable on the value of the estate and effects for which probate or letters of administration is or are granted, and “death duties” has the same meaning;

“law of England” means the law of England as in force on the 16th of May 1921;

“next of kin” means the person or persons entitled under an intestacy according to the provisions of the Administration of Estates Act; Ch. 9:01.

“probate” means the probate of a Will;

“Registrar” means the Registrar of the Supreme Court and includes the Sub-Registrar thereof;

“representative” means the executor or the administrator for the time being of a deceased person; and includes the Administrator General, and in the construction of any Act or Ordinance or rule where the word “heir” or “heirs” is used, the same shall, as regards the devolution of the legal estate in land, be held to apply to the representative, and, as regards the beneficial interest, to the person or persons entitled under the provisions of the Administration of Estates Act;

“rules” means rules made under this Act and includes forms;

“Will” includes “testament,” “codicil” and all other testamentary instruments of which probate may now be granted.

## **PART I**

### **WILLS AND PROBATE**

**3.** The Court shall have jurisdiction to determine the validity and admissibility to probate of the Will or the granting of administration of the estate of any person domiciled in Trinidad and Tobago and of the estate in Trinidad and Tobago of any person, wherever domiciled, dying seised or possessed thereof or entitled thereto, and to revoke any probate or administration in any suit instituted either by an executor or administrator or any person claiming under a Will to have it established or to have the trusts of it carried into effect under the decree of the Court or by any person claiming adversely to a Will or administration to have it declared void, and the registration of it prevented or recalled, or claiming to have administration revoked.

Jurisdiction of Court.

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Application  
of practice of  
Probate  
Division.

4. In so far as any Act or Ordinance and rules and orders of Court do not extend, the Court shall be guided in the exercise of its jurisdiction under this Act by the jurisprudence and practice for the time being of the Probate Division of the High Court of Justice in England so far as the same may be applicable.

Probate, etc.,  
required for  
realty.

5. The Court shall have jurisdiction in respect of probate and administration equally whether the estate of a deceased person consists of realty only or of personalty only, or partly of realty and partly of personalty.

Rights and  
liabilities of  
representative.

6. Every executor of any Will which shall be proved after the commencement of this Act, and every administrator to whom any administration of the estate of any person shall be granted after the commencement of this Act, shall take and have the same estate and interest in and control over the estate of his testator or of the intestate, and shall have the same rights, actions, powers, and authorities, and be subject to the same actions, suits, and liabilities, in respect of such estate, as any executor or administrator would take, have, and be subject to in respect of personal estate according to the law of England; and all actions and suits and rights of action and suit which, by the law of England, would go to the executor or administrator or heir of any person dying in England and all actions and suits to which any executor or administrator or heir would be subject according to the law of England, shall, in Trinidad and Tobago, in like manner go to and be maintainable against every representative who, after the commencement of this Act, shall prove the Will or obtain administration of the estate of any person dying and leaving effects within Trinidad and Tobago.

Liability to  
discharge debts  
of deceased not  
to be affected.

7. Nothing herein contained shall be taken to relieve or discharge any representative, devisee, or devisees of any person from his or their liability for the debts and contracts of such person to the extent of the property descended or devised to such representative, devisee, or devisees; and where any person, by bond, covenant, or other specialty, shall have bound himself and his heirs or representative, every creditor shall and may have and

maintain his action of debt or covenant upon such bond, covenant, or specialty against the representative and the devisee or devisees of such obligor or covenantor, or the devisee or devisees of such first mentioned devisee or devisees jointly in the same manner as he might by the law of England, and such representative, devisee, or devisees may plead any plea to such action which he or they would be permitted to plead by the law of England: Provided that all the estate which any person shall die possessed of or entitled to shall be assets to be administered for the payment of all the just debts of such person.

**8.** Every person who may be appointed executor by any Will shall be deemed a trustee, in respect of any residue not expressly disposed of, for the person or persons (if any) who would be entitled thereto according to law in the same manner as if this Act had not been passed, unless it shall appear by the Will that the person or persons so appointed executor or executors was or were intended to take such residue beneficially.

Executor to be a trustee.

**9.** Where there is not any person who would by law be entitled to the testator's estate, the executor shall be entitled to the residue in such part of the estate as consists of personalty, but as to land the same shall be subject to the rights of the State as heretofore.

Beneficial interest of executor in personalty.

**10.** If any person shall take possession of or in any manner administer any part of the estate of any person deceased without proving the Will or obtaining administration of the estate of the deceased within three months after the decease of such person, or within one month after the termination of any suit respecting the Will or the right to administration or application to the Court, whichever shall last happen, he shall be deemed guilty of an offence against this Act, and, in addition to all civil liabilities he may have incurred to persons entitled to any interest in such estate, he shall be liable, on summary conviction, on the complaint of the Administrator General, to a fine of five hundred dollars or to imprisonment for six months. The Administrator General may

Executor *de son tort* liable to penalty.

*L.R.O.*

take summary proceedings under this section at any time within five years from the time when the cause of complaint arose.

Executor  
*de son tort*  
how chargeable.

**11.** If any person, not being the executor or administrator, shall take upon himself the office of executor, or intermeddle with the estate of any party deceased, such person shall be charged and chargeable as executor of his own wrong of the party deceased, and shall be subject to all actions and suits to which an executor of his own wrong is subject according to the law of England; and where any question shall arise whether any person is chargeable by reason of any act done by him as executor of his own wrong, such question shall be decided according to the law of England in the like case.

Cesser of right  
of executor to  
prove.

**12.** Where a person appointed executor by a Will—

- (a) survives the testator but dies without having taken out probate of the Will; or
- (b) is cited to take out probate of the Will and does not appear to the citation; or
- (c) renounces probate of the Will,

his rights in respect of the executorship shall wholly cease and the representation to the testator and the administration of his estate shall devolve and be committed in like manner as if that person had not been appointed executor.

Withdrawal of  
renunciation.

**13.** (1) Where an executor who has renounced probate has been permitted, whether before or after the commencement of this Act, to withdraw the renunciation and prove the Will, the probate shall take effect and be deemed always to have taken effect without prejudice to the previous acts and dealings of and notices to any other representative who has previously proved the Will or taken out letters of administration, and a memorandum of the subsequent probate shall be endorsed on the original probate or letters of administration.

(2) This section applies whether the testator died before or after the commencement of this Act.

**14.** (1) An executor of a sole or last surviving executor of a testator is the executor of that testator.

Executor of  
executor  
represents  
original testator.

This provision shall not apply to an executor who does not prove the Will of his testator, and, in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the Will of that testator, it shall cease to apply on such probate being granted.

(2) So long as the chain of such representation is unbroken, the last executor in the chain is the executor of every preceding testator.

(3) The chain of such representation is broken by—

- (a) an intestacy; or
- (b) the failure of a testator to appoint an executor; or
- (c) the failure to obtain probate of a Will,

but is not broken by a temporary grant of administration if probate is subsequently granted.

(4) Every person in the chain of representation to a testator—

- (a) has the same rights in respect of the estate of that testator as the original executor would have had if living; and
- (b) is, to the extent to which the estate of that testator has come to his hands, answerable as if he were an original executor.

**15.** (1) Where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the others or other to prove, all the powers which are by law conferred on the representative may be exercised by the proving executor or executors for the time being and shall be as effectual as if all the persons named as executors had concurred therein.

Right of  
proving  
executors to  
exercise  
powers.

(2) This section applies whether the testator died before or after the commencement of this Act.

*L.R.O.*

Provisions as to  
the number of  
representatives.

**16.** (1) Probate or administration shall not be granted to more than four persons in respect of the same estate.

(2) This section shall apply to grants made after the date of commencement of this Act, whether the testator or intestate died before or after that date.

Administration  
*pendente lite*.

**17.** (1) Where any legal proceedings touching the validity of the Will of a deceased person, or for obtaining, recalling, or revoking any grant, are pending, the Court may grant administration of the estate of the deceased to an administrator, who shall have all the rights and powers of a general administrator, other than the right of distributing the residue of the estate, and every such administrator shall be subject to the immediate control of the Court and act under its direction.

(2) The Court may, out of the estate of the deceased, assign to an administrator appointed under this section such reasonable remuneration as the Court thinks fit.

Continuance  
of legal  
proceedings  
after  
revocation of  
temporary  
administration.

**18.** If, while any legal proceeding is pending in the Court by or against an administrator to whom a temporary administration has been granted, that administration is revoked, the Court may order that the proceeding be continued by or against the new representative in like manner as if the same had been originally commenced by or against him, but subject to such conditions and variations, if any, as the Court directs.

Administration  
during minority  
of executor.  
[28 of 1973].

**19.** (1) Where an infant is sole executor of a Will, administration with the Will annexed shall be granted to his guardian, or to such other person as the Court thinks fit, until the infant attains the age of eighteen years, and on his attaining that age and not before, probate of the Will may be granted to him.

(2) Where a testator by his Will appoints an infant to be an executor, the appointment shall not operate to transfer any interest in the estate of the deceased to the infant or to constitute him a representative for any purpose unless and until probate is granted to him under this section.

**20.** (1) Any executor, notwithstanding he may have proved the Will of his testator, may at any time before he has intermeddled with the assets or acted as the representative of any person (in this section referred to as the “original testator”) of whom his testator was executor, renounce and disclaim being the representative of such original testator by making a declaration to that effect in the form set out in the Appendix to the First Schedule hereto, and registering the same with the Registrar General, and filing a certified copy thereof in the registry of the Court.

Disclaimer by executor.

First Schedule.

(2) The declaration shall have effect and validity only when registered, and on the registration thereof all the estate of the original testator which devolved to and became vested in such executor shall vest in law in the continuing executor or executors, and, if there be none, then in the Administrator General.

(3) The registration fee on such declaration shall be the sum of one dollar and twenty cents and no stamp duty shall be chargeable thereon.

(4) Whenever a declaration made under the provisions of this section contains any false or incorrect particulars, the person making it shall be deemed guilty of an offence against this Act and in addition to all civil liabilities he may have incurred, he shall be liable, on summary conviction, on the complaint of the Administrator General, to a fine of five hundred dollars or to imprisonment for six months. The Administrator General may take summary proceedings under this section at any time within five years from the time when the cause of the complaint arose.

**21.** No Will of any person deceased shall have any effect whatever, either in law or in equity, or shall pass any right, title, or interest whatever, until the same has been duly proved in accordance with the provisions of this Act.

Unproved Will to have no effect.

**22.** The Administrator General or any person alleging himself to be interested in the estate of any person deceased may by summons at any time call upon any person whom he alleges to

Summons to discover Will.

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be in possession of any Will of the deceased to produce the same; and the party upon whom such summons shall be served shall appear on the day to be named in such summons, and shall be bound to produce any such Will, and no Will afterwards propounded by the person omitting or refusing to produce the same in obedience to such summons shall be admitted to probate at any time thereafter without express leave of the Court.

Penalty for not  
producing Will.

**23.** Any person refusing or omitting in obedience to such summons to produce, at the time mentioned in such summons, any such Will purporting to have been executed by the testator, if it is at any time proved that any such Will was at the time of the service on him of such summons in his custody or control, shall be liable to attachment.

Rules and fees.

Ch. 4:01.

First Schedule.  
Third Schedule.

**24.** Rules for carrying this Act into effect as far as relate to practice, procedure and fees in connection therewith may be made in like manner as rules may be made under and for the purposes of the Supreme Court of Judicature Act: Provided that until varied or revoked by rules made under this section the rules contained in the First Schedule and the fees specified in Part I of the Third Schedule hereto shall be in force.

Right to  
administration.

**25.** Where any person shall die intestate or without having appointed any executor, or shall have appointed an executor but such appointment shall fail, or the executor named by the Will shall be under the age of twenty-one years, or shall be absent from Trinidad and Tobago and shall not have proved the Will, or where any person shall die out of Trinidad and Tobago but leaving any estate within Trinidad and Tobago; administration in respect of such estate shall be granted to the person entitled thereto: Provided that if, by reason of the insolvency of the estate of the deceased or of any other special circumstances, it appears to the Court to be necessary or expedient to appoint as administrator some person other than the person who, but for this provision, would by law have been entitled to the grant of administration, the Court may in its discretion, notwithstanding anything in this Act, appoint as administrator such person as it thinks expedient, and any

administration granted under this provision may be limited in any way the Court thinks fit.

**26.** All letters of administration, granted at a time when there shall be an executor who has not proved the Will, shall be voidable only and not void; but such administration shall become void when and so soon as a Will of the person of whose estate such administration shall have been granted shall be duly proved by any executor, or when such administration shall be revoked by order of the Court.

Effect of  
administration  
where an  
executor is  
living.

**27.** All acts done by any administrator under letters of administration which shall be voidable shall be valid notwithstanding administration shall afterwards become void or be revoked, but persons who shall have received any property as next of kin shall be liable to account for and transfer the same to the legatees or devisees or other persons entitled thereto under the Will, without prejudice to the rights of purchasers for valuable consideration.

Voidable  
administration.

**28.** The Court may by decree in any suit discharge a representative from his office, and, upon any such discharge, may (if necessary) grant administration to any person or persons, which administration shall be as valid as if the representative so discharged had died.

Power to  
discharge  
representative.

**29.** A representative may be removed by order of the Court for disobedience to any of its orders and, where it is necessary, some other person appointed in his stead, and the Court may order that such estate of the deceased as was vested in the representative so removed do vest in such person as may be appointed.

Removal of  
representative.

**30.** Applications for administration may be made by the following persons, as of course, and in the following order of preference:

Order of  
persons entitled  
to  
administration.

(a) in cases of intestacy—

- (i) the surviving husband or widow of the intestate;
- (ii) the next of kin;
- (iii) the Administrator General;

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- (b) where no executor has been appointed, or the executor is absent from Trinidad and Tobago, or is unable or unwilling to act—
- (i) the residuary devisee or residuary legatee;
  - (ii) a devisee or legatee;
  - (iii) the next of kin;
  - (iv) the Administrator General.

Administration with Will annexed, etc.

**31.** Where there shall be an executor of a Will, but such executor shall not have proved the Will and shall not have signed a declaration of renunciation, or where there shall be any residuary or other devisee or legatee or next of kin who shall not have signed a declaration of renunciation, the Court may, in any such case, if such executor, devisee, legatee, or next of kin do not appear after citation, or if such executor, devisee, legatee, or next of kin shall appear but shall not show any sufficient cause to the contrary, order that administration with the Will annexed be granted to the person who would be entitled thereto, if such executor, devisee, legatee, or next of kin had duly renounced.

Citations to persons having prior rights.

**32.** An applicant for a grant of administration with the Will annexed or for administration shall cite all persons having a prior right to apply for a grant of probate or administration, as the case may be, and who have not renounced the right to the grant. The Court may grant administration to the applicant in the event of the persons having such prior right failing to appear and to accept the grant after having been cited to do so.

Persons abroad need not be cited.

**33.** It shall be lawful for the Court to grant administration of the estate within Trinidad and Tobago of any person to any person resident within Trinidad and Tobago who would otherwise be entitled to the same without any previous citation to or the consent of any other party having a prior right to administration, but not resident or actually living within Trinidad and Tobago: Provided always, that such administration shall be granted with reservation of the right of the party having such prior right.

Creditors.

**34. (1)** On producing an affidavit stating who is the person who would be entitled to probate or administration, and showing

that such person has renounced the right to the same or neglected or refused to apply for the same after citation, and that the claim of the applicant is unsatisfied, but not otherwise, it shall be lawful for any person proving himself to be—

(a) a creditor of the testator or intestate; or

(b) a creditor for funeral expenses,

to apply for administration: Provided that in any case, the application shall set out and the applicant shall swear to the alleged debt and the particulars thereof with the same particularity as is required for the special endorsement of a writ of summons in an action.

(2) In any such application the Court may, in its discretion, cause to be summoned the executor named in the Will or the husband, wife, residuary legatee, or next of kin, as the case may be, or any other person interested in the estate of the deceased, and, if there are no persons so entitled or interested, the Administrator General.

Persons to be summoned.

**35.** (1) At any time after the expiration of six calendar months from the death of any testator, if the executors or executor to whom probate of the Will shall have been granted are or is then residing out of the jurisdiction of the Court, it shall be lawful for the Court on the application of the Administrator General or of a creditor or of any person having a beneficial interest grounded on affidavit showing the interest of the party applying and that the executors or executor are or is out of the jurisdiction, to grant a special administration of the estate of the testator, such administration to be limited during the absence of such executors or executor.

Special administration.

(2) Anything to the contrary notwithstanding in section 30 and subsection (1) of this section, whenever any subject or citizen of any State mentioned in the first column of the Fifth Schedule hereto dies within Trinidad and Tobago, or dies outside Trinidad and Tobago leaving property in Trinidad and Tobago, and no person is present in Trinidad and Tobago at the time of his death who is rightfully entitled to administer the estate of such deceased person, the Consul, Vice-Consul, or Consular Agent of such State within Trinidad and Tobago may take possession and have the

Administration of estates by Consular Officers. Fifth Schedule.

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custody of the property of such deceased person, and may apply the same in payment of his debts and funeral expenses, and may retain the surplus for the benefit of the persons entitled thereto; but such Consul, Vice-Consul, or Consular Agent shall immediately apply for, and shall be entitled to obtain from the Court, administration of the estate of such deceased person, limited in such manner and for such time as to the Court shall seem fit.

Variation of  
Schedule.

(3) It shall be lawful for the President by Proclamation to vary the Schedule referred to in the next preceding subsection—

- (a) by deleting therefrom any State when the provision of the Treaty with that State mentioned in the Schedule shall have ceased to have effect;
- (b) by adding thereto any State with whom the Government of Trinidad and Tobago shall make a Treaty of Commerce and Navigation containing provision similar to any of the provisions mentioned in the Schedule aforesaid.

Power to grant  
representation to  
a trust  
corporation.  
Ord. 25—1945.

**36. (1) The Court may—**

- (a) where a trust corporation is named in a Will as executor, whether alone or jointly with another person, grant probate to the corporation either solely or jointly with another person, as the case may require; and
- (b) grant administration to a trust corporation, either solely or jointly with another person, and the corporation may act accordingly as executor or administrator, as the case may be.

(2) Probate or administration shall not be granted to a syndic or nominee on behalf of a trust corporation.

(3) Any officer authorised for the purpose by a trust corporation or the directors or governing body thereof may, on behalf of the corporation, swear affidavits, give security and do any other act or thing which the Court may require with a view to the grant to the corporation of probate or administration, and the acts of any officer so authorised shall be binding on the corporation.

(4) Where, at the commencement of this Act, any interest in any estate is vested in a syndic on behalf of a trust corporation acting as the personal representatives of a deceased person, the said interest shall by virtue of this Act vest in the corporation in respect of the said interest.

This subsection shall not apply to securities registered or inscribed in the name of a syndic or to land registered under the Real Property Act, or to an encumbrance registered thereunder, in the name of a syndic, but any such securities, land, or encumbrances, shall be granted or transferred by the syndic to the corporation or as the corporation may direct. Ch. 56:02.

(5) This section shall have effect whether the testator or the intestate died before or after the commencement of this Act, and no such vesting, grant or transfer as aforesaid shall operate as a breach of a covenant or conditions against alienation or give rise to forfeiture.

(6) For the purposes of this section “trust corporation” means the Public Trustee or a corporation either appointed by the Court in any particular case to be a trustee or authorised by Rules made under section 15 of the Public Trustee Ordinance to act as custodian trustee. Ch. 8 No. 4. (1950 Ed.).

**37.** (1) Pending the hearing of any action, petition, summons, or other proceeding, whether in the nature of contentious or common form business, it shall be lawful for the Court, on the application of the Administrator General or of any party interested, on its being shown that the estate of any person deceased is in danger of spoliation or that for any other reason steps require to be taken for the custody or preservation of any property forming part of such estate, to appoint an interim receiver or grant an interim injunction or order the sale of any perishable property to be made by any person, and otherwise to intervene for the protection of the estate of the deceased in such manner and on such terms as to security and otherwise as to the Court shall seem fit: Provided that any application under this section may be made in the first instance *ex parte* on affidavit. Interim orders, etc. Ch. 8. No. 2-1940 ss. 26 and 37.

L.R.O.

Injunction.

(2) In any proceedings in which the validity of a Will is in question, or which are brought to recall any letters of administration, the Court shall have power to grant an injunction to prevent any representative from acting under such Will or administration.

Appeal from refusal of application.

**38.** On a refusal to grant probate or administration arising in the course of common form business, the applicant shall have the same right of appeal as if such refusal had been a refusal to make an order on an interlocutory application in Chambers *ex parte* in an ordinary action. But no appeal (other than by an action for revocation of probate or grant) shall lie on behalf of any party other than the applicant from the decision of the Court.

Caveats.

**39.** Any person claiming, as against the applicant for administration, to be entitled to administration, and any person objecting to the proof of the alleged Will, may enter a caveat against the grant of administration or probate to the applicant.

Probate not to issue until certificate relating to estate and succession duties filed.  
Ch. 76:02.

**40.** No probate or administration shall be granted by the Court until the applicant has filed with the Registrar the certificate mentioned in subsection (3) of section 35 of the Estate and Succession Duties Act, or has filed the certificate mentioned in subsection (2) or subsection (4) of section 36 of that Act.

### EXECUTION OF WILL

Will valid if executed according to formalities of domicile.

**41.** Every Will made out of Trinidad and Tobago by a British subject (whatever may be the domicile of such person at the time of making the same or at the time of his death) shall, as regards personal estate of such British subject within Trinidad and Tobago, be held to be well executed for the purpose of being admitted to probate in Trinidad and Tobago if the same be made according to the forms required either by the law of the place where such person was domiciled when the same was made, or by the laws in force at the time of the making thereof in that Commonwealth country where such person had his domicile of origin.

Execution of Wills.

**42.** Save as hereinbefore provided, no Will executed after the commencement of this Act shall be admitted to probate or annexed

to any letters of administration or be deemed to have any validity for any purpose whatsoever unless such Will is in writing and executed in manner hereinafter mentioned, that is to say,—it shall be made by a person of the age of twenty-one years or more, it shall either be signed at the foot or end thereof by the testator or by some other person in his presence and by his direction and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses of either sex competent to attest a Will according to the law of England, present at the same time, and such witnesses shall attest and subscribe the Will in the presence of the testator and of each other but no form of attestation shall be necessary. No person shall be a competent witness to any Will executed or purporting to be executed after the 16th of May 1921, who has attested such Will by making a cross or mark or otherwise than by his signature in his own proper handwriting.

**43.** In the case of the last Will of any person dying before the commencement of this Act, any such Will shall be admitted to probate if shown to have been executed according to the requirements of the law in force respecting the due execution of Wills at the time of the death of such testator; and in case of a person dying after such commencement, then any Will executed by such person bearing a date of execution prior to the commencement of this Act may at any time afterwards be admitted to probate, though not executed in compliance with the last preceding section, on its being proved to the satisfaction of the Court that such Will was executed in compliance with the requirements of the law with respect to the execution of Wills in force at the time of such execution.

Wills executed  
before  
commencement  
of the Act.

**44.** No appointment made by Will in exercise of any power shall be valid unless the same be duly executed as a Will; and every Will duly executed shall, so far as respects the execution and attestation thereof, be a valid execution of a general power of appointment by Will, notwithstanding it shall have been expressly required by the instrument conferring such power that a Will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

Execution of  
powers of  
appointment.

*L.R.O.*

Attestation by  
legatee, etc.,  
not to  
invalidate Will.

**45.** If any person shall attest the execution of any Will to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any estate (other than and except charges and directions for the payment of any debt or debts) shall be thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such Will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be null and void; but such person so attesting may, if otherwise admissible, be admitted as a witness to prove the execution of such Will or to prove the validity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such Will.

Executor  
competent to  
attest.

**46.** No person shall, on account of his being an executor of a Will, be incompetent to be admitted a witness to prove the execution of such Will or the validity or invalidity thereof.

#### REVOCATION AND CONSTRUCTION OF WILLS

Change of  
domicil not to  
invalidate Will.

**47.** Subject as in section 41 expressly provided, no Will or other testamentary instrument made within Trinidad and Tobago by any British subject shall be held to be revoked or to have become invalid, nor shall the construction thereof be altered, by reason of any subsequent change of domicil of the person making the same.

Revocation by  
marriage.

Ch. 45:01.

**48.** (1) Subject to the provisions of subsections (2) and (3) of this section every Will made by a man or woman shall be revoked by his or her marriage: Provided that no marriage *in extremis* solemnised in accordance with the provisions of the Marriage Act shall operate as a revocation of any Will.

(2) A Will made on or after the 1st of January 1928, in exercise of a power of appointment when the real or personal estate thereby appointed would not in default of such appointment pass to the testator's heir, customary heir, executor or administrator or the person entitled as his or her next of kin shall not be revoked by the marriage of the testator.

(3) A Will made on or after the 1st of January 1928, and expressed to be made in contemplation of a marriage shall not be revoked by the solemnisation of the marriage contemplated.

**49.** No Will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

No revocation by presumption.

**50.** Save as in section 48 provided, no Will or any part thereof shall be revoked otherwise than by another Will executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same and executed in the manner in which a Will is required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator or by some person in his presence and by his direction, with the intention of revoking the same.

Revocation in prescribed manner.

**51.** No obliteration, interlineation, or other alteration made in any Will after the execution thereof shall be admitted to probate or have any effect, except so far as the words or effect of the Will before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; but the Will, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the Will, opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration and written at the end or some other part of the Will.

Interlineation or other alteration, how to be verified.

**52.** No Will or any part thereof which shall be in any manner revoked shall be held to be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required and showing an intention to revive the same; and when any Will which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown.

Revoked Will not to be revived by implication.

**53.** No conveyance or other act made or done subsequently to the execution of a Will of or relating to any estate therein comprised, except an act by which such Will shall be revoked as

Conveyance *inter vivos* no revocation.

*L.R.O.*

aforesaid, shall prevent the operation of the Will with respect to such estate or interest in such estate as the testator shall have power to dispose of by Will at the time of his death.

Construction of Will as to time.

**54.** Every Will shall be construed, with reference to the estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator unless a contrary intention shall appear by the Will.

Lapsed interest to fall into residue.

**55.** Unless a contrary intention shall appear by the Will, such real estate or interest therein as shall be comprised or intended to be comprised in any devise in such Will contained, which shall fail or be void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such Will.

Construction of general devise.

**56.** A devise of the land of the testator, or of the land of the testator in any place or in the occupation of any person mentioned in his Will, or otherwise described in a general manner, and any other general devise which would describe a leasehold estate if the testator had no freehold estate which could be described by it, shall be construed to include the leasehold estates of the testator as well as freehold estates unless a contrary intention shall appear by the Will.

*Idem.*

**57.** A general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his Will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description shall extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal property described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description shall extend (as the case may be), which

he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will.

**58.** Where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by Will in such real estate, unless a contrary intention shall appear by the Will.

Construction of  
general devise.

**59.** In any devise or bequest, the words “die without issue”, or “die without leaving issue”, or “have no issue”, or any other words which may import either a want or failure of issue of any person in his lifetime or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the Will: Provided that this section shall not extend to cases where such words as aforesaid import if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue.

Construction of  
limitation by  
devise.

**60.** Where any real estate shall be devised to any trustee or executor, such devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by Will in such real estate, unless a contrary intention shall appear by the Will.

Construction of  
a devise to a  
trustee.

**61.** Where any real estate shall be devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate or in the surplus rents and profits thereof shall not be given to any person for life, or such beneficial interest shall be given to any person for life but the purposes of the trust may continue beyond the life of such person, such devise shall be construed to vest in such trustee the fee simple, or other the whole legal estate which the testator had power to dispose of by Will in such real estate, and not an estate determinable when the purposes of the trust shall be satisfied.

Construction of  
devise of real  
estate to trustee  
without express  
limitation of  
estate.

*L.R.O.*

Construction of  
devise with  
words of  
limitation in tail.

**62.** Where any real estate shall be devised to any person in such manner that such person would, according to the law of England, take an estate tail, or an estate in *quasi* entail, and such person shall die in the lifetime of the testator leaving issue who shall be inheritable under such entail and any such issue shall be living at the time of the death of the testator, such devise shall not lapse but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

Gifts to children  
or other issue  
who leave issue  
living at the  
testator's death  
shall not lapse.

**63.** Where any person, being a child or other issue of the testator, to whom any estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the lifetime of the testator, leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator unless a contrary intention shall appear by the Will.

Charges on  
property of  
deceased to be  
paid primarily  
out of the  
property  
charged.

**64.** (1) Where a person dies possessed of, or entitled to, or, under a general power of appointment by his Will disposes of, an interest in property, which at the time of his death is charged with the payment of money, whether by way of mortgage equitable charge or otherwise (including a lien for unpaid purchase money), and the deceased has not by Will, Deed or other document signified a contrary or other intention, the interest so charged shall, as between the different persons claiming through the deceased, be primarily liable for the payment of the charge; and every part of the said interest, according to its value shall bear a proportionate part of the charge on the whole thereof.

(2) Such contrary or other intention shall not be deemed to be signified—

- (a) by a general direction for the payment of debts or of all the debts of the testator out of his personal estate, or his residuary real and personal estate, or his residuary real estate, or

(b) by a charge of debts upon any such estate, unless such intention is further signified by words expressly or by necessary implication referring to all or some part of the charge.

(3) Nothing in this section affects the right of a person entitled to the charge to obtain payment or satisfaction thereof either out of the other assets of the deceased or otherwise.

**65.** Where by any Will the testator shall have charged his real estate or any specific portion thereof with the payment of his debts, or with the payment of any legacy or other specific sum of money, and shall have devised the estate so charged to any trustee or trustees for the whole of his estate or interest therein and shall not have made any express provision for the raising of such debt, legacy, or sum of money out of such estate, it shall be lawful for the said devisee or devisees in trust, notwithstanding any trusts actually declared by the testator, to raise such debts, legacy, or money as aforesaid by a sale and absolute disposition by public auction or private contract of the said estate, or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other; and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same shall think proper.

Devisee in trust may raise money by sale, notwithstanding want of express power in the Will.

**66.** The powers conferred by the last preceding section shall extend to all and every person or persons in whom the estate devised shall for the time being be vested by survivorship, descent, or devise, or to any person or persons who may be appointed under any power in the Will, or by the Court, to succeed to the trusteeship vested in such devisee or devisees in trust as aforesaid.

Powers given by last section to extend to survivors, devisees, etc.

**67.** If any testator who shall have created such a charge as is described in section 65 shall not have devised the estate charged as aforesaid in such terms as that his whole estate and interest therein shall become vested in any trustee or trustees, the executor or executors for the time being named in such Will (if any) shall have the same or the like power of raising the said moneys as is hereinbefore vested in the devisee or devisees in trust of the said

Executors may exercise power where no sufficient devise.

*L.R.O.*

estate, and such power shall from time to time devolve to and become vested in the person or persons (if any) in whom the executorship shall for the time being be vested; but any such sale or mortgage shall operate only on the estate and interest, whether legal or equitable of the testator, and shall not render it unnecessary to get in any outstanding subsisting legal estate.

Purchasers or mortgagees not bound to enquire as to powers.

**68.** Purchasers or mortgagees shall not be bound to enquire whether such powers shall have been duly and correctly exercised by the person or persons acting in virtue thereof.

Application of sections.

**69.** The provisions of sections 65, 66 and 67 shall not extend to a devise to any person or persons in fee or in tail, or for the testator's whole estate and interest charged with debts or legacies, nor shall they affect the power of any such devisee or devisees to sell or mortgage as he or they may by law now do.

### CONTENTIOUS BUSINESS

Contentious business.

**70.** All procedure for obtaining proof of a Will in solemn form and all proceedings in any application subsequent to appearance being entered in answer to the warning of a caveat, and all applications for revocation or amendment of any probate or administration on any ground, and all proceedings by or against executors or administrators or by or against the Administrator General under the probate jurisdiction of the Court, shall be deemed contentious business.

Application in solemn form.

**71.** It shall be competent for any person claiming probate in the first instance to make application, to be heard as an application for grant in solemn form, by commencing an action to establish the Will against any person with any opposite interest; but in such case the Court shall, at the trial, not allow to the applicant the costs or any part of the costs of such action out of the estate unless satisfied that the action was necessary.

Form of applications in solemn form.

**72.** (1) Applications for probate or for grant of administration in solemn form shall be by writ of summons, the endorsement thereof stating the reason for the application being made for proof or grant in solemn form.

(2) The writ shall be served upon any party as against whom the applicant desires to establish his right, and if no such party is alleged, then upon the Administrator General, and any party so served may enter appearance thereto in the prescribed manner and may attend the hearing thereof.

**73.** It shall be lawful for the Court, at any stage of any proceedings instituted under the provisions of this Act, to direct the Administrator General to be made a party thereto, and to adjourn any hearing, summons, or other proceeding to admit of service on and appearance by the Administrator General.

Joinder of  
Administrator  
General.

#### **FILING OF ACCOUNTS**

**74.** (1) Every representative shall, within twelve months from the date of granting of probate or administration, as the case may be, file with the Registrar an account showing his receipts and disbursements of the estate of the testator or intestate, and that all sums due in respect of the said estate for estate duty have been duly paid, and showing also the debts of the deceased and the extent to which the same have been paid by such representative.

Duty to file  
accounts.

(2) If any representative shall neglect or omit to file the account in this section provided for it shall be lawful for the Administrator General or any person alleging himself to be interested in the estate of the deceased, to call upon such representative by summons entitled “In the matter of the estate of A. B. deceased and the Wills and Probate Act”, to show cause why he should not file such account; and upon the return of such summons, it shall be lawful for the Court to direct that such account be filed within such time as the Court may direct, and in case of default such representative shall be liable to attachment.

**75.** The representative shall, as against the estate, be entitled to the costs and expenses of and attendant on the rendering and filing the account in the last preceding section mentioned, if filed within twelve months, but not otherwise.

Costs of filing  
accounts.

*L.R.O.*

MISCELLANEOUS

Custody and  
registration  
of Wills.

**76.** (1) All Wills of which probate has been granted or which have been re-sealed under the provisions of Part II of this Act, shall remain in the registry of the Court. A certified copy of every such Will and of every administration granted, shall, immediately on probate or administration being granted or re-sealed, be prepared by the Registrar, sealed with the seal of the Court and transmitted to the Registrar General, and be registered in the manner hereinafter provided in the Protocol of Wills in the office of the Registrar General.

Registrar  
General to  
number certified  
copies and to  
annex  
certificate.

(2) The Registrar General shall number every certified copy as aforesaid which shall be registered in each year according to the order of time in which the same shall be delivered to him for registration, beginning with the number one and proceeding in a regular numerical series, and shall, at the time when any such certified copy shall be delivered to him endorse upon and annex to such copy a certificate under his hand, according to the form in the Second Schedule hereto.

Second  
Schedule.

Certified copies.

**77.** The contents of every such certified copy and of any other certified copy of a proved Will under the seal of the Court shall be conclusive evidence of the language of such Will and presumptive evidence of the due execution and attestation thereof.

Copy of decree  
to be registered.

**78.** If in any suit the Court shall declare a Will to be void, or shall revoke any administration, or shall declare one Will to be void and establish another Will, or shall revoke any administration and grant new administration in lieu thereof, the Registrar shall transmit a sealed copy of the decree to the Registrar General, which shall be forthwith entered in the Protocol of Wills, and noted or referred to in the margin of the copy of the Will or administration so declared void or revoked as the case may be.

Conveyancing  
fee where estate  
does not exceed  
\$1,000 in value.

**79.** In all cases in which the value of the real and personal estate shall not exceed one thousand dollars, the fee payable for the preparation and execution of any deed of conveyance or

memorandum of transfer of land by the representative to the person or persons beneficially entitled thereto shall be five dollars and no more.

**80.** The fees specified in Part II of the Third Schedule hereto shall be paid to the Registrar General and no application for a grant of probate or administration or an application for re-sealing under this Act shall be received by the Registrar except on the production of the Registrar General's receipt.

Registration  
fees.  
Third Schedule.  
Part II.

**81.** (1) Every person to whom a grant of administration is made shall give a bond (in this section referred to as "an administration bond") to the Registrar, with one or more sureties conditioned for duly collecting, getting in, and administering the real and personal estate of the deceased: Provided that the Court may in its discretion and in a fit and proper case dispense with any surety to an administration bond.

Administration  
bonds.

(2) When the person applying for administration is the widow or husband or only child or sole next of kin of the deceased or the Administrator General or Public Trustee, no security shall be required for the due administration of the estate unless the Court shall otherwise order.

(3) Where it appears to the satisfaction of the Court that the condition of an administration bond has been broken, the Court may, on an application in that behalf, order that the bond shall be assigned to such person as may be specified in the order, and the person to whom the bond is assigned in pursuance of the order shall be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Registrar, and to recover thereon as trustee for all persons interested the full amount recoverable in respect of the breach of the condition thereof.

**82.** The Revenue Officers shall, on the request of the Registrar, make or cause to be made such enquiries and reports as may be required by the Court for the purpose of carrying out the provisions of this Act.

Revenue  
Officers to  
assist.

*L.R.O.*

Depositories for  
Wills of living  
persons.

**83.** There shall, under the control and direction of the Court, at the registry of the Court at Port-of-Spain, be provided safe and convenient depositories for the custody of the Wills of living persons, and any person may deposit his Will therein on payment of such fees and subject to the rules specified in the Fourth Schedule hereto.

Fourth  
Schedule.

**PART II**

**BRITISH AND COLONIAL PROBATE**

Interpretation.

**84.** For the purposes of this Part of this Act—

“British Court in a foreign country” means any British Court having jurisdiction out of any Commonwealth country in pursuance of an Order in Council, whether made under any Act or otherwise;

“Court of Probate” means any Court or authority by whatever name designated, having jurisdiction in matters of probate;

“Commonwealth country” includes any British Protectorate or Protected State and any Territory in respect of which a mandate on behalf of the League of Nations has been accepted by the Government of Trinidad and Tobago;

“probate” and “letters of administration” include confirmation in Scotland, and any instrument having in any other Commonwealth country the same effect which under English law is given to probate and letters of administration respectively.

Sealing of  
probates and  
letters of  
administration  
granted outside  
Trinidad and  
Tobago.

**85.** Where a Court of Probate in any Commonwealth country, or a British Court in a foreign country, has, either before or after the date of commencement of this Act, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to, and a copy thereof deposited with, the Registrar be sealed with the seal of the Court, and thereupon shall be of the like force and effect, and have the same operation in Trinidad and Tobago as if granted by that Court.

**86.** The Court shall, before sealing a probate or letters of administration under this Act, be satisfied—

Conditions to be fulfilled before sealing.

- (a) that estate duty has been paid in respect of so much, if any, of the estate as is liable to estate duty in Trinidad and Tobago; and
- (b) in the case of letters of administration, that security has been given to the Registrar in a sum sufficient in amount to cover the property if any, in Trinidad and Tobago to which the letters of administration relate,

and may require such evidence, if any as it thinks fit as to the domicile of the deceased person.

**87.** The Court may also, if it thinks fit, on the application of any creditor, require, before sealing, that adequate security be given for the payment of debts due from the estate to creditors residing in Trinidad and Tobago.

Security for payment of debts.

**88.** For the purposes of this Part of this Act, a duplicate of any probate or letters of administration sealed with the seal of the Court granting the same, or a copy thereof certified as correct by or under the authority of the Court granting the same, shall have the same effect as the original.

Duplicate or copy admissible.

### \*PART III

#### FAMILY PROVISION

**89.** }  
to } *(Repealed by Act No. 28 of 2000).*  
**93A.** }

### PART IV

#### GENERAL

**94.** (1) The real and personal estate, whether legal or equitable, of a deceased person, to the extent of his beneficial

Real and personal estate of deceased are assets for payment of debts.

\*See Note on page 2.

L.R.O.

interest therein, and the real and personal estate of which a deceased person in pursuance of any general power disposes by his Will, are assets for payment of his debts (whether by specialty or simple contract) and liabilities, and any disposition by Will inconsistent with this enactment is void as against the creditors, and the Court shall, if necessary, administer the property for the purpose of the payment of the debts and liabilities.

This subsection takes effect without prejudice to the rights of encumbrancers.

(2) If any person to whom any such beneficial interest devolves, or is given, or in whom any such interest vests, disposes thereof in good faith before an action is brought or process is sued out against him, he shall be personally liable for the value of the interest so disposed of by him, but that interest shall not be liable to be taken in execution in the action or under the process.

Access to  
documents.

**95.** The Commissioner of Inland Revenue, the Comptroller of Accounts and the Administrator General shall at all times have free access to all probate documents in the registry of the Court, and any other person may, on payment of the prescribed fee for a search, examine any Will or document, or, upon payment therefor, obtain an office copy of a Will or document deposited in the registry.

## **SCHEDULES**

### **FIRST SCHEDULE**

(Section 24).  
[1/1959  
16/1984  
139/2021].

#### **NON-CONTENTIOUS BUSINESS RULES**

##### **NON-CONTENTIOUS BUSINESS SHALL INCLUDE ALL COMMON FORM BUSINESS AS DEFINED BY THE ACT**

In these Rules—

“registry” means the principal registry of the Supreme Court and unless a contrary intention is expressed the term shall include a sub-registry;

“Act” means the Wills and Probate Act;

“Will” has the same meaning as that ascribed to it in the Act.

#### **APPLICATIONS**

1. Application for probate or letters of administration may be made at the registry of the Supreme Court, Port-of-Spain, in all cases. Application may also be made at either of the sub-registries in cases where the deceased, at the time of his death, had a fixed place of abode within the district in which the application is made, and not otherwise.

Applications  
where made.

2. Such applications shall be made through an Attorney-at-law and shall not be received by letter nor through the medium of an agent. Applications shall not be accepted at the registry unless they bear the signature of the Attorney-at-law who prepared the same: Provided that in applications coming within the provisions of rule 5, the Registrar or Sub-Registrar, to whom application is made, shall prepare the necessary papers to lead to a grant of probate or administration, without the payment of any fees other than those mentioned in the said rule.

Applications  
how made.

3. (1) Applications for probate shall be in writing and there shall be filed together therewith—

Procedure for  
probate.

- (a) an affidavit by the applicant in support of the said application;
- (b) an affidavit by the persons attesting, or one of them, exhibiting the Will and stating in effect that the requirements of the Act as regards its execution have been complied with;

*L.R.O.*

- (c) a certificate of death or burial of the deceased, or a statement in writing to the satisfaction of the Registrar for the non-production thereof;
- (d) an inventory of the particulars of the estate of the deceased, showing the several items of property, the nature and extent thereof and the estimated gross value set upon each and showing also the particulars of the estate, if any, of the deceased, situate abroad and in respect of which no grant is required;
- (e) a certificate by the Registrar or an affidavit by the party applying or someone on his behalf that from search made in the registry it appears that no other application for probate or administration in the same estate has been made, and that no Will other than that for which probate is sought is deposited in the registry under section 83 of the Act;
- (f) the certificate mentioned in subsection (3) of section 35 of the Estate and Succession Duties Act, or the certificate mentioned in subsection (2) or subsection (4) of section 36 of that Act.

Ch. 76:02.

(2) (a) The inventory shall be annexed to the affidavit of the applicant in support of his application and he shall depose that the same comprises all the real and personal estate of the deceased and that the value therein set out is correct to the best of his knowledge and belief or with such exception as shall be shown therein.

(b) There shall be excepted what the deceased shall have been possessed of or entitled to as a trustee for any other person, but not beneficially, and also any property therein specified which is so situate or circumstanced as to appear incapable of immediate valuation.

(3) The application, affidavits and the inventory shall be in the respective forms appearing in the Appendix hereto with such variations as the case may require.

Procedure for  
administration.

4. (1) Applications for administration shall be in writing and there shall be filed together therewith an affidavit by the applicant in support of the said application in which he shall depose that the deceased left no Will (or, as the case may be, exhibiting any last Will of the deceased which the applicant desires to have annexed to such administration) and showing the relationship or other circumstances alleged as entitling the applicant to such administration.

(2) The provisions of rule 3 shall apply to applications for administration except paragraph (1)(a) and (b).

5. (1) When any person shall die possessed of or entitled to estate the value of which does not exceed the sum of four thousand, eight hundred dollars, and application has been made for a grant of administration thereto by any person being husband, wife, child, descendant, father, mother, brother or sister or issue of a brother or sister of the deceased or for a grant of probate by an executor, the following provisions shall apply:

Procedure to obtain probate or administration in estates of \$4,800 and under. [16/1984].

- (a) On receipt of the application the Registrar shall make such enquiries into the facts stated therein as he shall think fit and shall report the same in writing to the Court.
- (b) The Court may, if satisfied therewith, grant administration or probate as the case may be to the applicant.
- (c) The applicant shall not be required to give any security or pay any registration or other fee, and the entire fee payable in respect of the application and issue of administration or probate shall be the fees set out in Part I of the Third Schedule.
- (d) No certificate under subsection (3) of section 35 of the Estate and Succession Duties Act shall be required.
- (e) No inventory need be filed, but in lieu thereof the applicant shall in his affidavit set out the information required by rule 3(1)(d) of these rules.
- (f) There shall unless the Court otherwise directs, be no advertisement of the application as provided for in these rules but the Registrar shall cause notice of the application to be screened in a conspicuous place in the registry where the application is made for a period of two weeks before the grant issues.

Third Schedule. Part I.

Ch. 76:02.

(2) Notwithstanding anything contained in the Commissioners of Affidavits Act, there shall be no fees payable to Commissioners of Affidavits in respect of any affidavit required in respect of applications made under this rule.

Ch. 6:52.

(3) In the absence of an executor, a grant may be made to the persons named and in the order of priority mentioned in section 30 of the Act.

(4) In all other respects the provisions of rules 3 and 4 of these Rules shall apply.

6. Every Will to which an executor or administrator with the Will annexed is sworn, must be marked by such executor or administrator and by the person before whom he is sworn.

Will to be marked.

*L.R.O.*

Reasons for delay.

7. In every case where probate or administration is, for the first time, applied for after a lapse of three years from the death of the deceased, the reason of the delay is to be certified to the Registrar. Should the certificate be unsatisfactory, the Registrar is to require such proof of the alleged cause of delay as he may see fit.

Applications by corporation.

8. Where application is made for probate or administration by a corporation other than the Public Trustee the officer appointed by the corporation for such purpose shall in every case file in the registry a sealed copy of the resolution appointing him, and shall depose, in the oath to lead to the grant, that the charter or memorandum of association of such corporation empowers such corporation to make such application.

Enquiries by Registrar.

9. The Registrar is not to allow probate or administration to issue until all the enquiries which he may see fit to institute have been answered to his satisfaction. The Registrar is, notwithstanding, to afford as great facility for the obtaining grants of probate or administration as is consistent with a due regard to the prevention of error or fraud.

#### **AFFIDAVIT OF SUBSCRIBING WITNESS**

Affidavit of subscribing witness to show requirements of Act complied with.

10. If on perusing the affidavit of the subscribing witness it appears that the requirements of the Act have not been complied with, the Court shall refuse probate.

Where subscribing witnesses dead.

11. If the subscribing witnesses are dead, or refuse to swear to the affidavit of execution, or if from other circumstances no affidavit can be obtained from any of them, resort must be had to other persons (if any) who may have been present at the execution of the Will; but if no affidavit of any such other person can be obtained, evidence on affidavit must be procured of that fact and of the handwriting of the deceased and the subscribing witnesses, and also of any circumstances which may raise a presumption in favour of the due execution, and thereupon it shall be lawful for the Court to grant probate without the filing of an affidavit of due execution.

Where execution doubtful.

12. If on perusing the affidavit setting forth the facts of the case it appears doubtful whether the Will has been duly executed, the Court may require the parties to bring the matter before a Judge in Chambers.

Proof of execution where testator blind or illiterate.

13. If the testator was blind or obviously an illiterate or ignorant person, then one of the attesting witnesses or the person who has appended the name of the testator must by affidavit depose to the facts, and that the Will was read over to the testator and approved by him before its execution.

14. In every case where an affidavit is made by a subscribing witness to a Will, such subscribing witness shall depose as to the mode in which the said Will was executed and attested.

Affidavit to show mode of execution.

15. The fee payable to a subscribing witness in respect of his affidavit of the execution shall be \$2.00 and he shall also be entitled to the reasonable travelling expenses and subsistence (if any) incurred by him incidental to the swearing of such affidavit.

Fee to a subscribing witness.

#### **INTERLINEATIONS AND ALTERATIONS**

16. Interlineations and alterations are invalid unless they existed in the Will at the time of its execution, or, if made afterwards, unless they have been executed and attested in the mode required by the Act, or unless they have been rendered valid by the re-execution of the Will or by the subsequent execution of a codicil thereto.

When interlineations valid.

17. When interlineations or alterations appear in the Will (unless duly executed, or recited in, or otherwise identified by, the attestation clause) an affidavit or affidavits in proof of their having existed in the Will before its execution must be filed, except when the alterations are merely verbal or when they are of but small importance and are evidenced by the initials of the attesting witnesses.

Proof of interlineations.

18. Erasures and obliterations are not to prevail unless proved to have existed in the Will at the time of its execution or unless the alterations thereby effected in the Will are duly executed and attested, or unless they have been rendered valid by the re-execution of the Will or by the subsequent execution of a codicil thereto. If no satisfactory evidence can be adduced as to the time when such erasures and obliterations were made, and the words erased or obliterated be not entirely effaced, but can upon inspection of the paper be ascertained, they must form part of the probate.

When obliterations valid.

19. In every case of words having been erased or obliterated which might have been of importance an affidavit must be required.

Affidavit required.

#### **DOCUMENTS REFERRED TO IN WILL**

20. If a Will contains a reference to any deed, paper, memorandum, or other document, of such a nature as to raise a question whether it ought or ought not to form a constituent part of the Will, the production of such deed, paper, memorandum, or other document must be required, with a view to ascertain whether it be entitled to probate; and, if not produced, its non-production must be accounted for.

Probate of document referred to in Will.

*L.R.O.*

Documents forming part of Will.

21. No deed, paper, memorandum or other document can form part of a Will unless it was in existence at the time when the Will was executed.

#### APPEARANCE OF THE PAPER

Marks on paper to be accounted for.

22. If there are any vestiges of sealing-wax or wafers or other marks upon the testamentary papers, leading to the inference that a paper, memorandum, or other document has been annexed or attached to the same, they must be satisfactorily accounted for, or the production of such paper, memorandum, or other document must be required; and, if not produced, its non-production must be accounted for.

Appearance of cancellation to be accounted for.

23. Any appearance of an attempted cancellation of a paper by burning, tearing, obliteration, or otherwise, and every circumstance leading to a presumption of abandonment or revocation of a paper on the part of the testator must be accounted for.

#### NOTICE TO OTHER NEXT OF KIN

Persons equally entitled.

24. Where administration is applied for by one or some of the next of kin only, there being another or other next of kin equally entitled thereto, the Registrar may require proof by affidavit that notice of such application has been given to such other next of kin.

#### LIMITED AND SPECIAL ADMINISTRATION

Persons entitled to general grant to be cleared off.

25. Limited administrations are not to be granted unless every person entitled to the general grant has consented or renounced, or has been cited and failed to appear, except under the direction of the Court.

Procedure to obtain special administration.

26. Applications under subsection (1) of section 35 of the Act shall be made upon motion to the Court, and the Court may require notice to be given to persons having prior right to a grant or to such other persons as it may think fit. A grant under this subsection may be limited as regards time or portion of the estate or otherwise as the Court may think fit.

General grant precludes limited grant.

27. No person entitled to a general grant in respect of the estate of a deceased person will be permitted to take a limited grant except under the direction of the Court.

#### GRANTS TO AN ATTORNEY

Power of attorney to be registered.

28. In the case of a person residing out of Trinidad and Tobago, administration may be granted to his attorney, acting under a power of attorney, registered in the office of the Registrar General. A certified copy of such power of attorney shall be filed with the application.

### **GRANTS TO GUARDIAN**

29. Grants of administration may be made to guardians of minors and infants for their use and benefit, and elections by minors of their next of kin or next friend, as the case may be, will be required.

Minors and infants.

30. In all cases of infants under the age of fourteen years not having a testamentary guardian, or guardian appointed by the Court, the guardian shall be appointed by the order of the Court. For the purpose of obtaining such appointment, an affidavit shall be filed showing that the proposed guardian is either *de facto* next of kin of the infants, or that their next of kin *de facto* has renounced his right to the guardianship, and is consenting to the assignment of the proposed guardian, and that such proposed guardian is ready to undertake the proposed guardianship.

Appointment of guardians.

31. Where there are both minors and infants, the guardian elected by the minors may act for the infants without being specially assigned to them by order of the Court, provided that the object in view is to take a grant. If the object be to renounce a grant, the guardian shall be specially assigned to the infants by order of the Court.

Guardian of minor may act for infant.

### **ADMINISTRATOR'S OATH**

32. The oath of an administrator is to be so worded as to clear off all persons having a prior right to the grant, and the grant is to show on the face of it how the prior interests have been cleared off, and the oath is to set forth, when the fact is so, that the party applying is the only next of kin or one of the next of kin of the deceased. In all administrations of a special character the recitals in the oath and in the letters of administration must be framed in accordance with the facts of the case.

Contents of oath.

### **ADMINISTRATION BONDS**

33. Administration bonds are to be attested by an officer in the registry authorised to administer oaths, or by an Attorney-at-law, Justice of the Peace, Notary Public, Revenue Officer or Commissioner of Affidavits. The bond shall be prepared by an Attorney-at-law who shall certify the fact thereon. The bond shall be filed in the Registry, Port-of-Spain.

Preparation and attestation of.

34. In all cases of administration, except where the Court otherwise directs, two sureties are to be required to the bond, and the bond shall be given in the same amount as the value of the estate to be placed in the possession of, or dealt with by, the administrator by means of the grant: Provided that the

Amount of bond and sureties.

*L.R.O.*

Court may in its discretion order that the bond may be given in such increased amount, not exceeding double the amount of the value of the estate to be placed in the possession of, or dealt with by, the administrator by means of the grant, as it may think fit: The bond shall be in such form in use in the Probate Court in England with such variations as are appropriate to the case, or in such other form as in special circumstances of the case the Registrar may direct.

Sureties to justify.

35. The Registrar is to take care (as far as possible) that the sureties to administration bonds are responsible persons, and except where the Registrar otherwise directs, the sureties to the administration bond must justify.

#### RENUNCIATION

Form of renunciation.

36. Renunciation shall be in such of the forms set out in the Appendix hereto or as nearly thereto as may be applicable to the case.

Renouncing executor or administrator not to take grant in another character.

37. No person who renounces probate or administration of the estate of a deceased person in one character is to be allowed to take representation to the same deceased in another character.

#### AFFIDAVITS

Order 38 of Rules of the Supreme Court to apply.

38. Order XXXVIII of the Rules of the Supreme Court, shall apply, with the necessary modifications, to affidavits in all matters under this Act.

Documents to be legible.

39. The Registrar is not to allow any affidavit or other document to be filed (unless by leave of the Court) which is not fairly and legibly written or printed on good clean paper, or in which there is any interlineation of such a nature as to cause such affidavit or other document to present an untidy appearance.

#### ADVERTISEMENT

Period of advertisement.

40. Application for probate or administration shall be advertised in the form in the Appendix hereto, and shall be inserted once a week for not less than two weeks in one of the local daily newspapers and once in the *Gazette*. From the date of the first advertisement three weeks shall elapse before any application is submitted to the Court, except where the Administrator General on behalf of the State is the applicant in which case the grant may issue at such time as seems fit to the Court.

Procedure where no caveat entered in sub-registry.

41. If no caveat shall have been entered in the sub-registry at which application has been made, the Sub-Registrar shall forward the application and other documents and a report by him to the Registrar.

**CAVEATS, WARNINGS AND CITATIONS**

42. Any person intending to oppose a grant of probate or administration shall, either personally or by his Attorney-at-law, enter a caveat in the registry: Provided, however, that if the application for a grant has been made in a sub-registry the caveat shall be entered there and all subsequent proceedings consequential upon such caveat shall be conducted in such sub-registry. Where entered.

43. The Registrar or Sub-Registrar shall note the caveat in the Caveat Book, and notify the Attorney-at-law of the applicant of the fact that a caveat has been entered. Notice of caveat.

44. A caveat may be in the form set out in the Appendix hereto, but any written document signed by the party objecting or by an Attorney-at-law on his behalf shall be sufficient. Form.

45. A caveat shall bear date on the day it is entered, and shall remain in force for the space of six months only, and then expire and be of no effect; but caveats may be renewed from time to time. Expiry of caveat.

46. A caveat may be entered at any time subsequent to the application for a grant of probate or administration and prior to the issue of the grant. Time for entry.

47. No grant shall be issued at any time if the Registrar has knowledge of an effective caveat. Caveats stop issue of grant.

48. The warning to a caveat is to be left at the place mentioned in the caveat as the address of the person who entered it and may be served by the person requiring such issue; but it shall be sufficient for the warning of a caveat that the Registrar or Sub-Registrar send by post a warning directed to the person who entered the caveat at the address mentioned in it. Warning.

49. The warning to a caveat is to state the name and interest of the party on whose behalf the same is issued, and if such party claims under a Will is also to state the date of such Will, and is to contain an address, within three miles of the registry or sub-registry at which any notice requiring service may be left. The warning shall be in the form set out in the Appendix hereto and shall be prepared by the Attorney-at-law issuing the same and signed by the Registrar or Sub-Registrar. Form of warning.

50. Before any citation is signed a caveat shall be entered against any grant being made in respect of the estate and effects of the deceased to which such citation relates. Caveat to be entered before citation signed.

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How caveat  
to be  
cleared off.

51. In order to clear off a caveat when no appearance has been entered to a warning duly served, an affidavit of the service of the warning, stating the manner of the service and an affidavit of search for appearance or non-appearance shall be filed.

No grant to  
issue till expiry,  
etc., of caveat.

52. After a caveat has been entered, the Registrar shall not proceed with the grant of probate or administration to which it relates until it has expired or been subducted, or until the caveat has been warned and no appearance entered, or until the contentious proceedings consequent on the caveat have terminated.

Affidavit to  
support citation.

53. No citation is to issue under seal of the Court until an affidavit, in verification of the averments it contains, has been filed in the registry.

Service of  
citation.

54. Citations are to be served in the same manner as writs of summons issued out of the Supreme Court, when that can be done.

Service by  
advertisement.

55. Citations and other instruments which cannot be so served shall be served by the insertion of the same, or an abstract thereof, settled and signed by the Registrar or Sub-Registrar as an advertisement in the *Gazette* and in a newspaper or newspapers to be approved by the Registrar and at such intervals as the Court may direct. The cost of such advertisement shall be borne by the person at whose instance the citation is issued.

#### RE-SEALING OF BRITISH AND COLONIAL PROBATES

Procedure.

56. Application to seal a grant of probate or administration or copy thereof under Part II of the Act shall be made in the registry, Port-of-Spain, by the executor or administrator or the attorney of such executor or administrator either in person or through an Attorney-at-law. Where the application is made by an attorney the power of attorney shall be registered in the office of the Registrar General and a certified copy thereof filed with the application.

Documents to  
be filed.

57. On such application being made the following documents shall be filed in the registry, Port-of-Spain:

- (a) the original grant, or a duplicate, or certified or sealed copy thereof;
- (b) an exemplified copy of the Will (if any). This copy should be made on foolscap paper;
- (c) the affidavit of the executor, administrator, attorney or Attorney-at-law in the form set out in the Appendix hereto or as nearly thereto as circumstances of the case will allow;

- (d) a copy of the advertisement in a local daily newspaper announcing the intention to reseal. This advertisement must have appeared at least fourteen days previous to the lodging of the application for resealing. The advertisement shall be in the form set out in the Appendix hereto;
- (e) the certificate required by rule 3(1)(f);
- (f) if application is made by an attorney, a certified copy of the power of attorney expressly authorising the resealing of the grant in Trinidad and Tobago;
- (g) the certificate required by rule 64 if more than three years have elapsed since the death of the deceased.

58. The Registrar is to be satisfied that notice of such application has been duly advertised once a week for two weeks in one of the local daily newspapers. Advertisement.

59. On application to seal letters of administration the administrator or his attorney shall give bond in the form and manner set out in rules 33, 34 and 35, in an amount equal to the value of the estate within the jurisdiction of the Court put in possession of the administrator or attorney. The same practice as to sureties and amount of penalty in bond is to be observed as on application for administration. Bonds.

60. Application by a creditor under section 87 of the Act shall be made by summons in Chambers supported by an affidavit setting out particulars of the claim. Application by creditor for security.

61. In every case, and especially when the domicile of the deceased at the time of death as sworn in the affidavit differs from that suggested by the description in the grant, the Registrar may require further evidence as to domicile. Proof of domicile.

62. If it should appear that the deceased was not at the time of death domiciled within the jurisdiction of the Court from which the grant issued, the seal is not to be affixed unless the grant is such as would have been made by the Court in Trinidad and Tobago. Domicil of deceased.

63. The grant (or copy grant) to be sealed must include all testamentary papers admitted to probate. Testamentary papers.

64. When application to seal a probate or letters of administration is made after the lapse of three years from the death of the deceased the reason of the delay is to be certified to the Registrar. Should the certificate be unsatisfactory, the Registrar is to require such proof of the alleged cause of delay as he may think fit. Reasons for delay.

*L.R.O.*

- Special grant.            65. Special or limited or temporary grants are not to be sealed without an order of the Court made on summons in Chambers.
- Notice of entry.        66. Notice of the sealing in Trinidad and Tobago of a grant is to be sent to the Court from which the grant issued.
- Notice of revocation.    67. When intimation has been received of the resealing of a grant issued by the Court in Trinidad and Tobago notice of the revocation of, or any alteration in, such grant is to be sent to the Court by whose authority such grant was resealed.
- Registration.            68. On a grant being resealed, the provisions of section 76 of the Act shall apply.

**MISCELLANEOUS**

- Testamentary papers not to leave Registry.        69. The Registrar shall not permit testamentary papers and other documents once deposited in the Registry to be removed or taken out therefrom, unless under special circumstances pending probate.
- Legal advice not to be given.    70. Legal advice is not to be given to applicants by officials in the registry, either with respect to the property to be included in the particulars of the estate or upon any other matter connected with the application, and the clerks in the department are only to be held responsible for embodying in a proper form the instructions given to them under rule 2 but they will as far as practicable assist applicants by giving them information and directions as to the course they must pursue.
- Forms.                  71. The forms in the Appendix hereto or forms to the like effect shall be used with such modifications as circumstances shall require; no notice or application or other document shall be deemed void for want of conformity with any form, provided that such document is in substantial compliance with the requirements of the Act and of these rules, and the Registrar may in default of such substantial compliance return such document to the person tendering the same for such further entries or amendments as he may deem necessary.
- Chief Justice may issue Practice Directions.        72. (1) The Chief Justice may issue Practice Directions as to the practice and procedure to be followed in the submission of applications under these Rules and in the conduct of business under these Rules generally.
- (2) Practice Directions must be—
- (a) published in the *Gazette*; and
- (b) displayed and made available at each court office.
- (3) A Practice Direction takes effect from the date of publication in the *Gazette* unless otherwise specified.

(4) The Chief Justice may, by Practice Direction, vary, suspend, waive or defer any fee to be taken by the Registrar for applications under these Rules.

(5) An applicant or his Attorney-at-law must comply with any relevant Practice Direction.

(6) Where an applicant or his Attorney-at-law fails to comply with any Rule or Practice Direction, the Registrar may by notice require the applicant or Attorney-at-law to do so within forty-two (42) days.

(7) Where the applicant or his Attorney-at-law fails to comply with subrule (6), the Registrar may strike out the application.

(8) The applicant or his Attorney-at-law may apply to the Registrar to have the application reinstated and the Registrar may issue fresh directions.

(9) The application for reinstatement must be made within twenty-eight (28) days of the date of the striking out.

*L.R.O.*

First Schedule.

**APPENDIX**

**LIST OF FORMS**

1. Probate advertisement.
2. Affidavit in support of application for administration.
3. Affidavit in support of application for probate.
4. Affidavit of witness to execution of Will.
5. Affidavit of justification of sureties.
6. Affidavit to lead citation to accept or refuse administration.
7. Affidavit to lead citation to propound a Will.
8. Application for grant of administration.
9. Application for grant of probate.
10. Caveat.
11. Warning to caveat.
12. Appearance to warning or citation.
13. Citation to accept or refuse probate.
14. Citation to accept or refuse administration.
15. *Praecipe* for citation.
16. Administration.
17. Administration with Will annexed.
18. Probate.
19. Renunciation of probate.
20. Renunciation of executorship.
21. Renunciation of administration.
22. Inventory.
23. Affidavit to lead to the resealing of British and Colonial grants.
24. Advertisement for resealing of British and Colonial grants.

FORM NO. 1

Rule 40.  
[1/1959].

**PROBATE ADVERTISEMENT**

REPUBLIC OF TRINIDAD AND TOBAGO

Public Notice is hereby given that applications have been made for the following grants of probate and/or administration, namely:

..... (here specify nature of grant applied for and if for probate of Will and/or codicil(s) or for letters of administration with Will and/or codicil(s) annexed, give date or dates of Will and/or codicil(s) ....., \*of or of the estate of\* .....  
(†Name of deceased) ..... late of ..... (last known address of deceased) ....., deceased, who died on the ..... day of .....  
20..... by .....  
*†Name, address and capacity of applicant*

And that unless Caveat is lodged within twenty-one days of the date of this advertisement with the Registrar of the Supreme Court or the Sub-Registrar through whom the above-mentioned applications have been made, Probate or Administration, as the case may be, in respect of the said applications will be granted accordingly.

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

.....  
*Registrar*

\*Strike out words between asterisks which are inapplicable.

†Names in capital letters in bold type.

FORM NO. 2

Rule 4.

**AFFIDAVIT IN SUPPORT OF APPLICATION  
FOR ADMINISTRATION**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of ..... late of .....Deceased.

I (or We) ..... of ..... make oath and say as follows:

1. I (or We) desire to obtain a grant of administration of the Estate of ..... late of ..... deceased, who died at ..... on the ..... day of ....., 20 ....., having a fixed place of abode at ..... within the Ward of ..... I am (or We are) over the age of twenty-one years.

*L.R.O.*

(Here show relationship or other circumstances alleged as entitling applicant to administration).

2. I (*or We*)

3. Shortly after the death of the deceased I made (or caused to be made) diligent search among the papers and effects of the deceased and also in the depository for Wills of living persons in the Registry of the Supreme Court for a Will or other document of a testamentary character of the deceased and found none and verily believe that the deceased died intestate.

4. From search made in the said Registry it appears that no application for probate or administration has been made previous to this application.

5. I (*or We*) will duly get in and administer the Estate of the said deceased and pay his (*or her*) just debts and distribute the rest of his (*or her*) estate according to law.

6. I (*or We*) will file in the Registry within twelve calendar months from the date of the grant a statement and account verified by my affidavit of my administration of the estate of the deceased.

7. The statements in the application annexed hereto are true to the best of ..... knowledge, information and belief.

8. The inventory hereto annexed is a true inventory of the particulars of the Estate of the deceased and the value of all the real and personal Estate and effects of the deceased for and in respect of which a grant is required and is exclusive of what the deceased may have been possessed of and entitled to as a trustee for any other person or persons and not beneficially, and is also exclusive of the property in the said inventory specified as being incapable of immediate valuation. The gross value thereof altogether is ....., to the best of ..... knowledge and belief.

Sworn by the above-named at ..... on the ..... day of ....., 20.....

Before me,  
Commissioner of Affidavits.

FORM NO. 3

Rule 3 (1)(a).

**AFFIDAVIT IN SUPPORT OF  
APPLICATION FOR PROBATE**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of ..... late of ..... Deceased.

I (*or We*) desire to obtain a grant of probate of the Will of ..... late of ..... deceased, who died at ..... on the ..... day of ..... 20....., having a fixed place of abode at ..... within the Ward of ..... I am (*or We are*) over the age of twenty-one years.

2. I (*or We*)

(Capacity of  
applicant).

3. The paper writing annexed hereto and marked ..... in my solemn belief contains the last Will and testament (and codicil) of the deceased ..... No application for probate or administration has been made previous to this application and no Will of the deceased other than that for which probate is now sought is deposited in the depository for Wills of living persons in the Registry.

4. I (*or We*) will duly get in and administer the Estate of the said deceased and pay his [*or her*] just debts and legacies and distribute the rest of his estate according to law.

5. I (*or We*) will file in the Registry within twelve calendar months from the date of the grant a statement and account verified by my affidavit of my administration of the estate of the deceased.

6. The statements in the application annexed hereto are true to the best of ..... knowledge, information and belief.

7. The inventory hereto annexed is a true inventory of the particulars of the Estate of the deceased and the value of all the real and personal Estate and effects of the deceased for and in respect of which a grant is required and is exclusive of what the deceased may have been possessed of and entitled to as a trustee for any other person or persons and not beneficially, and is also exclusive of the property in the said inventory specified as being incapable of immediate valuation. The gross value thereof altogether is \$ ..... to the best of my knowledge and belief.

Sworn by the above-named at ..... on the ..... day of ....., 20....

Before me,

Commissioner of Affidavits.

L.R.O.

Rule 3 (1)(b).

FORM NO. 4

**AFFIDAVIT OF WITNESS TO EXECUTION OF WILL**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of ..... late of .....Deceased.

I, ..... of the ..... in the Republic of Trinidad and Tobago,  
make oath and say as follows:

1. I was personally present on the ..... day of ....., 20 ....., together  
with ..... of ....., both of us being persons over fifteen  
years of age ..... at the residence of ..... at ..... in ... and did then and  
there see and hear the said ..... sign and publish his Will which said Will  
is annexed to the affidavit of the executor named therein and marked "A".

2. I and the said ..... then and there together signed and attested the  
said Will as witnesses to the signing and publishing thereof by the said .....  
in his presence and in the presence of each other.

3. The signature ..... at the foot of the said Will at page ..... is of the  
true handwriting of the said ..... deceased.

4. The said deceased was at the time of his death of the age of ..... or  
thereabouts.

5. The signatures ..... to the said Will subscribed as those of the witnesses  
attesting the signing and publishing thereof by the said .... are of the true  
handwriting of me this deponent and the said ..... respectively.

6. The signature of the testator to the said Will ..... was then and there  
written by the hand of ..... in our presence by the direction of the  
testator, and was acknowledged by the said testator in the presence of me this  
deponent and of the other attesting witness the testator being unable to write his  
own name owing to ..... and previously thereto the Will was read over to the  
testator in my presence and the testator understood the same and approved it.

Sworn by the said ..... at ..... on the .....day of ....., 20....

Before me,

Commissioner of Affidavits.

*Note* — Where the testator himself signed his Will, paragraph 6 is to be struck out.

FORM NO. 5

Rule 35.

**AFFIDAVIT OF JUSTIFICATION OF SURETIES**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

We, *C.D.*, of ....., and *E.F.*, of ....., jointly and severally make oath that we are the proposed sureties on behalf of *C.H.*, the intended administrator of the Estate of the said *A.B.*, of ....., deceased, in the sum of ..... dollars, for his faithful administration of the said Estate, and I, the said *C.D.* for myself further make oath that I am, after payment of all my just debts, well and truly worth in real or personal Estate the sum of ....., and I, the said *E.F.*, for myself further make oath that I am, after payment of all my just debts, well and truly worth in real or personal Estate the sum of ..... dollars.

Sworn by the above-named at ..... on the ..... day of ....., 20....  
(Signed)..... *C.D.*

*E. F.*

FORM NO. 6

Rule 53.

**AFFIDAVIT TO LEAD CITATION TO ACCEPT  
OR REFUSE ADMINISTRATION**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

We, *C.B.*, of ....., and *D.B.*, of ....., make oath and say, that *A.B.*, of ....., deceased, died on the .... day of ....., 20...., at ....., intestate, without issue or parent, leaving *E.B.*, of ....., his lawful widow and relict him surviving:

And we further make oath and say, that the said *E.B.* has not taken upon her as yet letters of administration of the Estate of the said deceased.

And we further make oath and say, that we are the lawful brothers and two of the persons entitled to share in the Estate of the said deceased, and are desirous of obtaining administration of the Estate of the said deceased.

And we further make oath and say, that the Estate left by the said deceased consists of ..... (*state the nature and amount of the property*).

Sworn by the above-named at .... on the .... day of ....., 20....  
(Signed)..... *C.B.*  
*D.B.*

*L.R.O.*

Rule 53.

FORM NO. 7

**AFFIDAVIT TO LEAD CITATION  
TO PROPOUND A WILL**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

We, *A.B.*, of ..... and *C.F.*, of ....., make oath and say as follows:

1. That *C.D.*, of....., died at ....., on the .....day of ....., 20....., intestate, leaving *H.D.* his lawful widow and relict and *X.D.* and *Y.D.* his lawful children and together the only persons entitled to his Estate in case he died intestate.

2. The said *X.D.* and *Y.D.* are now minors of the age of twelve and ten years respectively, and we are the lawful guardians of the said minors.

3. That the said deceased left a certain paper writing, dated the ..... day of ....., 20....., purporting to be a Will wherein he appointed the said *H.D.* sole executrix, residuary legatee and devisee.

4. We are desirous of issuing a citation against the said *H.D.* to propound the said Will or paper writing should she think it for her interest so to do, and that in default letters of administration of the estate of the said *C.D.* as having died intestate be granted to us for the use and benefit of the said *X.D.* and *Y.D.* and until one of them attains twenty-one years of age.

Sworn by the above-named at ..... on the ..... day of ....., 20....  
(Signed)..... *A.B.*

*C.F.*

Rule 4.

FORM NO. 8

**APPLICATION FOR GRANT OF ADMINISTRATION**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

The undersigned ..... of ..... in the Ward of ..... applies for a Grant of Administration to the Estate of the deceased.

The applicant is ..... of the deceased.

The deceased died on the ..... day of ..... at .....

The Estate of the deceased does not exceed in gross value the sum of \$ ..... as set out in the Inventory filed herein.

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

(Signed).....

To the Registrar of the Supreme Court.

**FORM NO. 9**

Rule 3.

**APPLICATION FOR PROBATE**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

The undersigned ..... of ... in the Ward of ..... applies for a Grant of Probate of the last Will and testament of the deceased dated ..... annexed hereto.

The deceased died on the ..... day of ....., 20....., at .....

The applicant ..... the person ..... named in the said Will as executor thereof.

The estate of the deceased does not exceed in gross value the sum of \$ ..... as set out in the Inventory filed herein.

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

(Signed).....

To the Registrar of the Supreme Court.

**FORM NO. 10**

Rule 44.

**CAVEAT**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

Let nothing be done in the matter of the Estate of ..... late of..... deceased who died on the .....day of ....., 20....., at ..... unknown to ..... of ..... having interest or ..... the Attorney-at-law of .....

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

(Signed).....

To the Registrar of the Supreme Court.

*L.R.O.*

Rule 49.

FORM NO. 11

**WARNING TO CAVEAT**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

Dated the ..... day of ....., 20.....

To ..... of ..... (or ..... of ....., Attorney-at-law).

\*As to place of  
entry see R. 41.

You are hereby warned, within six days (exclusive of Sunday) after the service of this warning upon you, inclusive at the day of such service, to cause an appearance to be entered for you in the .....\*Registry (or Sub-Registry) to the Caveat entered by you in the estate of..... of ....., deceased, who died at....., on or about the ..... day of ....., 20....., and to set forth your (or your client's) interest.

And take notice that in default of your so doing, the said Court will proceed to do all such acts, matters, and things as shall be needful and necessary to be done in and about the premises.

Issued at the instance of ..... (add the interest of ..... in the matter, and give an address for service of notices within three miles of the Registry, Port-of-Spain or Sub-Registry).

Registrar.

**FORM NO. 12**

**APPEARANCE TO WARNING OR CITATION**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

Caveat ..... dated the ..... day of ....., 20.....

Citation dated the ..... day of ....., 20.....

In the Estate of *A.B.*, late of .....

Plaintiffs (the parties warning or citing) ..... Name (in full) *C.D.*, of ....., and *E.F.*, of ....., the executors of the last Will and testament of *A. B.*, deceased, dated (*or as the case may be*).

Defendant (the party warned or cited) ..... Name (in full) *G.H.*, of ..... the natural and lawful and only son and only next of kin of the said *A.B.* (*or as the case may be*).

Name and address (within three miles of the Registry, Port-of-Spain or Sub-Registry) of Attorney-at-law or party appearing.

Dated the ..... day of ....., 20.....

*L.R.O.*

(Section 32).

FORM NO. 13

**CITATION TO ACCEPT OR REFUSE PROBATE**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

To *A.B.*, of .....

Whereas it appears by the affidavit of *C.D.*, sworn the ..... day of ..... 20....., that *E.F.* of ..... died on the ..... day of ....., 20....., at ..... having made and duly executed his last Will and testament dated the ..... day of ....., 20....., and thereof appointed you, the said *A.B.*, executor, but did not therein name any residuary legatee or devisee. And whereas it further appears by the said affidavit that the said *C.D.* is the natural and lawful brother and one of the next of kin of the said deceased.

Now this is to command you, the said *A.B.*, that within eight days after service hereof on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the Registry of the Supreme Court at Port-of-Spain and accept or refuse probate of the said Will, or show cause why letters of administration with the said 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 the said *C.D.* And take notice, that in default of your so appearing and accepting probate of the said Will, our said Court will proceed to grant letters of administration with the said Will annexed of the said estate to the said *C.D.*, your absence notwithstanding.

Dated at Port-of-Spain this ..... day of ....., 20.....,

Extracted by ..... of ....., Attorney-at-law.

Registrar.

FORM NO. 14

(Section 32).

**CITATION TO ACCEPT OR REFUSE ADMINISTRATION**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

To *A.B.*, of

Whereas it appears by an affidavit of *C.D.*, sworn the ..... day of ....., 20....., that *E.F.* of ..... died on the ..... day of ....., 20....., at ..... intestate, a widower, without child or parent, leaving you the said *A.B.*, his natural and lawful brother and only next of kin: And whereas it further appears by the said affidavit that the said *C.D.* is the lawful nephew and one of the persons entitled in distribution to the estate of the said deceased, being the natural and lawful son of ....., the natural and lawful sister of the said deceased, who died in the lifetime of the said deceased:

Now this is to command you, the said *A.B.*, that within eight days after service hereof on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the Registry of the Supreme Court at Port-of-Spain, and accept or refuse letters of administration of all the estate which by law devolves to and vests in the personal representative of the said deceased, or show cause why the same should not be granted to the said *C.D.*, and take notice that in default of your so appearing and accepting the said letters of administration, our said Court will proceed to grant administration of the said Estate to the said *C.D.*, your absence notwithstanding.

Dated at Port-of-Spain, this ..... day of ....., 20.....

Extracted by ..... of ....., Attorney-at-law.

Registrar.

FORM NO. 15

**PRAECIPE FOR CITATION**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

Citation for *A.B.* against *C.D.* in a matter calling upon *C.D.* to accept or refuse letters of administration of the estate of *I.K.*, of ....., in the Ward of ..... who died on the ..... day of ....., 20....., at .....

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

(Signed) *G.H.*

Attorney-at-law for *A.B.*

(Address for Service).

*L.R.O.*

FORM NO. 16

ADMINISTRATION

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE SUPREME COURT

In the Estate of..... late of .....Deceased.

On the ..... day of ....., 20....., Letters of Administration of the Estate of ....., late of ..... aforesaid, deceased, who died at ....., on the ..... day of ....., 20....., intestate, were granted by the Supreme Court of Trinidad and Tobago, to ....., of .....

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

Registrar.

FORM NO. 17

ADMINISTRATION WITH WILL ANNEXED

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE SUPREME COURT

In the Estate of..... late of .....Deceased.

On the ..... day of ....., 20....., Letters of Administration with the Will annexed of the Estate of ..... late of ..... aforesaid, deceased, who died at ....., on the ..... day of ....., 20....., were granted by the Supreme Court of Trinidad and Tobago, to ....., of .....

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

Registrar.

**FORM NO. 18**

**PROBATE**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

The annexed Will of ..... who died at....., on the ..... day of  
....., 20....., was proved in the Supreme Court of Trinidad and Tobago,  
on the ..... day of ....., 20....., by .....

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

Registrar.

**FORM NO. 19**

Rule 36.

**RENUNCIATION OF PROBATE**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

Whereas *A.B.*, of ....., deceased, died on the ..... day of  
....., 20....., at....., having made and duly executed his last Will  
and testament, bearing date the ..... day of ....., 20....., and  
thereof appointed his son, the undersigned *C.D.* sole executor.

Now I, the said *C.D.*, do hereby declare that I have not intermeddled in the  
Estate of the deceased, and will not hereafter intermeddle therein with intent  
to defraud creditors, and I do hereby renounce all my right and title to the  
probate and execution of the said Will.

Signed by the said *C.D.* this ..... day of ....., 20....., in the presence  
of .....

*L.R.O.*

(Section 20).

FORM NO. 20

## RENUNCIATION OF EXECUTORSHIP

REPUBLIC OF TRINIDAD AND TOBAGO

### IN THE SUPREME COURT

In the Estate of..... late of .....Deceased.

Whereas *A.B.*, (*occupation*), late of ..... in the Republic of Trinidad and Tobago, died on the ..... day of ....., 20...., at..... having made and duly executed his last Will dated the ....., whereby he appointed ..... of ..... his executor. And whereas probate of the said Will was granted by the Supreme Court of Trinidad and Tobago to the said ..... on the ..... day of ....., 20...., and the same is registered in the Protocol of Wills in Trinidad and Tobago as No. .... for the year 20.....

And whereas, the said (*executor*) died on the ..... day of ..... without having fully administered the estate of the said (*testator*). And whereas the said (*executor*) by his last Will dated the ..... day of ..... appointed me (*or us*) the undersigned (*name*) together with ..... to be the executors thereof. And whereas probate of the said Will was granted to me (*or us*) the said ..... by the Supreme Court on the ..... day of ..... and the same is registered in the Protocol of Wills as No. .... for the year 20.....

Now I (*or we*) the said ..... do hereby declare that I (*or we*) have not intermeddled with the assets or acted as the representative(s) of the said (*original testator*) and I (*or we*) hereby renounce and disclaim being the representative(s) of the said (*original testator*).

Signed by the said ..... at ..... this ..... day of ....., 20...., in the presence of .....

**FORM NO. 21**

Rule 36.

**RENUNCIATION OF ADMINISTRATION**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

Whereas *A.B.*, of ....., in the Ward of ....., deceased, died on the ..... day of ....., 20....., at ....., intestate a widower: And whereas I, *C.D.*, am his lawful son and the only person entitled to his estate:

Now I, the said *C.D.*, do hereby renounce all my right and title to the letters of administration of the estate of the said deceased.

Signed by the said *C.D.* this ..... day of ....., 20....., in the presence of .....

\_\_\_\_\_

*L.R.O.*

Rule 3 (1)(d).

**FORM NO. 22**

**INVENTORY**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

Nature, extent and estimated gross value of the Estate of the deceased  
referred to in the application for Probate or Administration.

(Irrespective of debts and charges.)

| Description of Property:                                                    | Value |
|-----------------------------------------------------------------------------|-------|
| Real Estate ... ..                                                          |       |
| Cash in hand ... ..                                                         |       |
| Cash in Bank ( <i>state name of Bank or Banks and amount in each</i> )      |       |
| Furniture ... ..                                                            |       |
| Share ( <i>state name of Company or Companies</i> ) ... ..                  |       |
| Mortgage debts ( <i>state particulars</i> ) ... ..                          |       |
| Promissory Notes ( <i>state particulars</i> )... ..                         |       |
| Policies of Insurance ( <i>state name of Companies and amount in each</i> ) |       |
| And other property ( <i>state description</i> ) ... ..                      |       |
| Property (if any) situate abroad ... ..                                     |       |
| Total Value ... ..                                                          | \$    |

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

(Signed).....

FORM NO. 23

Rule 57 (c).

**AFFIDAVIT TO LEAD TO THE RESEALING OF  
BRITISH AND COLONIAL GRANTS**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of ..... Deceased.

I, ..... of ....., make oath and say:

1. That a grant of probate (*or* letters of administration of the Estate) of ..... late of ....., deceased, who died on the ..... day of ....., 20....., was granted to me (*or A.B.*) ....., by the .....Court at ....., on the ..... day of ....., 20.....

2. That the said deceased was at the time of his death domiciled at ..... (*the following words to be struck out if inapplicable*) within the jurisdiction of the said Court.

3. The advertisement hereto annexed was inserted in the ..... newspaper on the ..... day of ....., 20.....

4. That I am the attorney lawfully appointed of ..... under his hand and seal, and am duly authorised to apply to this Court for the sealing of the said grant.

(*This paragraph to be struck out if inapplicable*).

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

Sworn to by the above-named ..... at ..... this ..... day of ....., 20.....

Before me, .....

Commissioner of Affidavits

L.R.O.

Rule 57 (d).

FORM NO. 24

**ADVERTISEMENT FOR RESEALING OF  
BRITISH AND COLONIAL GRANTS**

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

In the Estate of..... late of .....Deceased.

Notice is hereby given that after the expiration of fourteen days from the date here of application will be made in the Registry of the Supreme Court for the sealing of the probate of the Will (*or* letters of administration of the Estate) of ..... late of ....., deceased, granted by the ..... Court at ..... on the ..... day of ....., 20.....

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

Attorney-at-law for .....

[Section 76 (2)].

**SECOND SCHEDULE**

**REGISTRAR GENERAL'S CERTIFICATE**

1. (A.B.), Registrar General of Trinidad and Tobago, do hereby certify that the annexed certified copy of ..... was received by me for registration from the Registrar of the Supreme Court on the ..... day of ....., 20....., at ..... o'clock in the ..... noon; and that the number of pages on which the said certified copy is written is ..... and that the same is registered as No. .... in the Protocol of Wills for the year 20.....

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

Registrar General.

### THIRD SCHEDULE

(Section 24).  
[16/1984  
4 of 1992  
77/1997].

#### PART I

#### FEES TO BE TAKEN BY THE REGISTRAR OF THE SUPREME COURT, ON APPLICATIONS FOR PROBATE OR ADMINISTRATION, AND TO SEAL BRITISH AND COLONIAL PROBATES

|                                                                                           | \$ | ¢  |
|-------------------------------------------------------------------------------------------|----|----|
| 1. Where the Estate does not exceed \$480 for all fees and charges                        | 4  | 80 |
| 2. Where the Estate exceeds \$480 but does not exceed \$1,440<br>for all fees and charges | 12 | 00 |
| 3. In all other cases —                                                                   |    |    |
| (a) Fee on application                                                                    | 7  | 20 |
| (b) Fee on issue of or on resealing grant on gross value<br>of Estate —                   |    |    |
| Exceeding \$1,440 and not exceeding \$4,800                                               | 4  | 80 |
| do. \$4,800                                                                               | 7  | 20 |
| do. \$14,400                                                                              | 12 | 00 |
| do. \$48,000                                                                              | 24 | 00 |

#### PART II

(Section 80).  
[4 of 1992].

#### REGISTRATION FEE PAYABLE TO THE REGISTRAR GENERAL

For the registration of a Will with probate and letters of administration (including resealing), where the Estate within Trinidad and Tobago and exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person and not beneficially,

|                                                                                |          |
|--------------------------------------------------------------------------------|----------|
| does not exceed the value of \$50,000                                          | \$25.00  |
| exceeds the value of \$50,000 and<br>does not exceed the value of \$100,000    | \$50.00  |
| exceeds the value of \$100,000 and<br>does not exceed the value of \$250,000   | \$75.00  |
| exceeds the value of \$250,000 and<br>does not exceed the value of \$400,000   | \$100.00 |
| exceeds the value of \$400,000 and<br>does not exceed the value of \$500,000   | \$200.00 |
| exceeds the value of \$500,000 and<br>does not exceed the value of \$750,000   | \$300.00 |
| exceeds the value of \$750,000 and<br>does not exceed the value of \$1,000,000 | \$400.00 |
| exceeds the value of \$1,000,000                                               | \$500.00 |

*L.R.O.*

[77/1997].

PART III

**MAXIMUM FEES CHARGEABLE BY ATTORNEYS-  
AT-LAW FOR THE PREPARATION OF APPLICATIONS  
FOR PROBATE OR ADMINISTRATION  
IN COMMON FORM**

[Rule 2(d)].

**WILLS AND PROBATE**

1. The following scale of charges shall be applicable for preparing applications for Probate or Letters of Administration in common form and for all preliminary work done in connection therewith, including searches at the Depository of Wills of living persons and the Probate Registry, the taking of instructions and preparation of an inventory of Estate and attendance to obtain or reseal a Grant:

| <i>Value of Estate</i>                                   | <i>Scale of Charges</i>                                                                                                  |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| (a) Not exceeding \$10,000.00                            | Five per cent of such value with a minimum fee of \$500.00                                                               |
| (b) Exceeding \$10,000.00 and not exceeding \$250,000.00 | Five per cent on the first \$10,000.00 of such value and three per cent on the excess beyond \$10,000.00                 |
| (c) Exceeding \$250,000.00                               | The same fee chargeable if the value of the Estate were \$250,000.00 plus one per cent on the excess beyond \$250,000.00 |

2. The above scale of charges shall also apply in the case of—

- (a) applications for Double or *cessate* Probate and *de bonis non*; and
- (b) applications for the sealing or resealing of Probates.

3. Fees for the administration of an Estate including the calling in and distribution of same in accordance with the directions and provisions in a Will or in accordance with the laws upon intestacy shall be fair and reasonable and shall be determined in accordance with the matters set out hereunder—

- (a) the complexity of the matter or the difficulty or novelty of the question raised;
- (b) the skill, labour, specialised knowledge and responsibility involved on the part of the Attorney-at-law;
- (c) the number and importance of the documents prepared without regard to length;

- (d) the place where and circumstances in which the business or any part thereof is transacted;
- (e) the time expended by the Attorney-at-law;
- (f) where money or property is involved, its amount or value; and
- (g) the importance of the matter to the client.

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**PART IV**  
*(Repealed by LN 77/1997).*

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**PART V**  
*(Repealed by LN 77/1997).*

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*L.R.O.*

(Section 83).

#### FOURTH SCHEDULE

##### DEPOSITORY FOR WILLS OF LIVING PERSONS

The Registry of the Court in Port-of-Spain is the depository provided for the Wills of living persons, and testators are at liberty to deposit their Wills therein under the following regulations:

1. The Will to be deposited must be enclosed in a sealed linen envelope and brought into the Registry and acknowledged as that of the testator before the Registrar or Deputy Registrar, either by the testator himself or by some person specially authorised to deposit the same on his behalf.

2. The Will so deposited will not under any circumstances be delivered out of the Registry nor revoked by destruction.

3. In case the testator himself deposits his Will, he will be required to sign his name, or acknowledge his signature, in the presence of the Registrar or Deputy Registrar, to an endorsement on the envelope in which the Will or codicil is enclosed, to the following effect:

“This sealed packet contains the last Will and testament, or codicil to the last Will and testament, or last Will and testament and codicil thereto, bearing date respectively (*here state the dates of all the papers enclosed*) of *A.B.*, of, etc., whereof *C.D.* of, etc., and *E.F.* of, etc., are appointed executors, and the same are brought into the Registry of the Supreme Court in Port-of-Spain by me for safe custody, there to remain deposited until after my decease.”

The residences of the testator and of the executors should be set forth in this endorsement and also the date of the testator’s signature thereto.

4. In case the testator authorises some person to deposit his Will for him he will be required to subscribe his name, in presence of a witness, to an endorsement on the envelope in which the Will or codicil is enclosed, to the following effect:

“This sealed packet contains the last Will and testament, or codicil to the last Will and testament, or last Will and testament and codicil thereto, of me, *A. B.*, etc., whereof *C.D.* of, etc., and *E.F.*, of, etc., are appointed executors, and I authorise *G.H.* to deposit the same for safe custody in the Registry of the Supreme Court in Port-of-Spain, there to remain deposited until after my decease.”

(Signed) *A. B.*

Witness *K.L.*

The residences of the testator and of the executors should be set forth in this endorsement, and also the date of the testator’s signature thereto.

The packet containing the Will must be accompanied by an affidavit of the witness to the effect that the signature of the testator to the above endorsement, deposited by the witness, is in the proper handwriting of such testator, and was by him signed in the witness's presence on the day mentioned in the endorsement, and that the signature "K.L." is in the proper handwriting of the deponent. An affidavit will also be required from the person authorised to deposit the packet, to the effect that the packet which is produced for the purpose of being deposited for safe custody in the Registry of the Supreme Court in Port-of-Spain, and on the back of which the deponent has signed his name, is at the time of making the affidavit precisely in the same state, plight and condition as when received by the deponent from the hands of A.B. (the testator) on a day to be mentioned as that on which he received it.

The last-mentioned affidavit is to be sworn before the Registrar or Deputy Registrar to whom the packet containing the Will or codicil is delivered.

*(For forms of affidavit see Forms A and B of Appendix hereto).*

5. In case the testator is a person of unsound mind, his Will may be deposited for or on behalf of the Administrator General or the committee of the person.

The Administrator General or the committee of the person, or the person depositing the Will on his behalf, will be required to sign his name, or acknowledge his signature in the presence of the Registrar or Deputy Registrar to an endorsement on the envelope in which the Will is enclosed to the following effect:

"This sealed packet contains the last Will and testament, or codicil to the last Will and testament, or last Will and testament and codicil thereto, bearing date respectively [*here state the dates of all the papers enclosed*] of A.B., now a person of unsound mind of, etc., whereof C.D., of, etc., and E.F. of, etc., are appointed executors, and the same are brought into the Registry of the Supreme Court in Port-of-Spain by the Administrator General or the committee of the person for safe custody, there to remain deposited until after the decease of the testator." The residences of the testator and of the executors should be set forth in this endorsement and also the date of the testator's signature thereto.

6. A minute setting forth the production of the packet containing the Will, and the affidavits (if any), and when and by whom the same were produced, and the declaration of the testator, or his agent, that he deposited the same in the Registry for safe custody, and also acknowledging the receipt of the packet, will be drawn up in duplicate and will be signed by the Registrar or Deputy Registrar. One copy of this minute will be delivered to the testator, and the other retained in the Registry.

*(For forms of minute see Forms C and D of Appendix hereto).*

L.R.O.

**DEPOSITORY FOR WILLS OF  
LIVING PERSONS—Continued**

7. The following fees will be payable in stamps:

|                                                         | \$ | ¢  |
|---------------------------------------------------------|----|----|
| For depositing the Will and receipt for same ... ..     | 2  | 40 |
| For drawing and entering minute of the Registrar ... .. | 0  | 60 |
| For filing each affidavit ... ..                        | 0  | 48 |

8. On the death of a testator who has deposited a Will during his lifetime, the certificate of death, and, when possible, the Registrar's minute or certificate on the deposit must be produced. The executors will be required to attend and acknowledge before the Registrar or Deputy Registrar that they are the executors named in the Will. They will be sworn to the Will (which is not delivered up) before a Commissioner of Affidavits at the Registry. The following fees will be payable:

|                                                          | \$ | ¢  |
|----------------------------------------------------------|----|----|
| For filing minute on opening Will ... ..                 | 0  | 60 |
| For search, if Registrar's minute be not produced ... .. | 0  | 24 |

*(For form of minute on opening Will see Form E of Appendix hereto).*

9. All forms and envelopes required for depositing of Wills are to be had on application at the Registry of the Supreme Court.

**APPENDIX**

Fourth  
Schedule.

**FORM A**

**AFFIDAVIT OF AGENT AS TO HANDWRITING**

(Deposit of Living Person's Will).

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

I, *A.B.*, of ....., Attorney-at-law, make oath and say as follows:

1st. That, the signature ..... at the foot of the endorsement on the packet containing the last Will of *C.D.* and witnessed by me is in the proper handwriting of the said *C.D.* and was by him signed in my presence on the ..... day of ....., 20.....

2nd. That the signature thereto is the proper handwriting of me this deponent.  
Sworn, etc.

(Signed).....*A.B.*

**FORM B**

**AFFIDAVIT OF AGENT AS TO STATE,  
PLIGHT AND CONDITION**

(Deposit of Living Person's Will).

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

I, *A.B.*, of ....., Attorney-at-law, make oath and say as follows:

That the sealed packet I produce for the purpose of the same being deposited for safe custody in the Registry of the Supreme Court in Port-of-Spain, and on the back of which I have signed my name, is now precisely in the same state, plight and condition as when received by me from the hands of *C.D.*, of ..... on the ..... day of ....., 20.....

Sworn, etc.

(Signed).....*A.B.*

*L.R.O.*

FORM C

MINUTE ON RECEIPT OF LIVING PERSON'S WILL

(Deposited by Testator).

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE SUPREME COURT

PERSONALLY appeared *A.B.* of .....who produced a sealed packet which he declared to contain his last Will and testament with an endorsement thereon in the words and figures following to wit:

"The ..... day of ....., 20.....

"This sealed packet contains the last Will and testament of *A.B.*, bearing date of ..... day of ....., 20....., and the same was brought into the Registry of the Supreme Court in Port-of-Spain by me for safe custody there to remain deposited until after my decease,"

and subscribed in his own handwriting as he then acknowledged. And he then declared that he deposited the said packet in this Registry for safe custody, whereupon the said packet was received and deposited in this Registry accordingly.

Dated the ..... day of ....., 20.....

(Signed).....*W.F.*

*Registrar*

**FORM D**

**MINUTE ON RECEIPT OF LIVING PERSON'S WILL**

(Deposited by Agent).

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE SUPREME COURT**

PERSONALLY appeared *A.B.*, of ....., Attorney-at-law, who produced a sealed packet which he declared to contain the last Will and testament of *C.D.*, of ....., with an endorsement thereon in the words and figures following to wit:

“ The ..... day of ....., 20.....

“ This sealed packet contains the last Will and testament of me, *C.D.*, of ....., bearing date the ..... day of ....., 20..... and I authorise *A.B.* of ....., Attorney-at-law, to deposit the same for safe custody in the Registry of the Supreme Court in Port-of-Spain, there to remain deposited until after my decease,”

and subscribed in his own handwriting as he then acknowledged. And he then declared that he deposited the said sealed packet in this Registry for safe custody, whereupon the said packet was received and deposited in this Registry accordingly.

Dated the ..... day of ....., 20.....

(Signed).....*W.F.*

*Registrar*

*L.R.O.*

FORM E

MINUTE ON OPENING WILL  
DURING TESTATOR'S LIFETIME

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE SUPREME COURT

In the Estate of *A.B.*, deceased.

APPEARED before the undersigned Registrar of the Supreme Court (*C.D.*) who alleged that *A.B.*, late of ....., died on the ..... day of ....., 20..... and further alleged that he was the executor named in the Will of the said *A.B.*, bearing date the ..... day of ....., 20....., which had been deposited in the Registry by the deceased in his lifetime for safe custody. The undersigned Registrar on his application ordered that the envelope containing the said Will be opened that the appearer might be sworn as the executor named therein.

Dated the ..... day of ....., 20.....

(Signed).....*W.F.*

*Registrar*

**FIFTH SCHEDULE**

[Section 35 (2)].

**ADMINISTRATION OF ESTATES BY CONSULAR  
OFFICERS OF PARTICULAR STATES**

| Name of State | Title of Treaty                                                                  | Date of Treaty      | Provision                     |
|---------------|----------------------------------------------------------------------------------|---------------------|-------------------------------|
| Finland ...   | Treaty of Commerce and Navigation between the United Kingdom and Finland         | 14th December, 1923 | Article 19 (third paragraph). |
| Greece ...    | Treaty of Commerce and Navigation between the United Kingdom and Greece          | 16th July, 1926 ... | Article 23.                   |
| Hungary ...   | Treaty of Commerce and Navigation between the United Kingdom and Hungary         | 23rd July, 1926 ... | Article 14.                   |
| Japan ...     | Treaty of Commerce and Navigation between the United Kingdom and Japan           | 3rd April, 1911 ... | Article 5.                    |
| Thailand ...  | Treaty of Commerce and Navigation between the United Kingdom and Siam (Thailand) | 23rd November, 1937 | Article 19.                   |
| Turkey ...    | Treaty of Commerce and Navigation between the United Kingdom and Turkey.         | 1st March, 1930 ... | Article 28.                   |
| Yugoslavia    | Treaty of Commerce and Navigation between the United Kingdom and Yugoslavia      | 12th May, 1927 ...  | Article 24.                   |

*L.R.O.*