

JU302*

Administration Act 1903
Supreme Court Act 1935

Non-contentious Probate Amendment Rules 2009

Made by the Judges of the Supreme Court.

1. Citation

These rules are the *Non-contentious Probate Amendment Rules 2009*.

2. Commencement

These rules come into operation as follows —

- (a) rules 1 and 2 — on the day on which these rules are published in the *Gazette*;
- (b) the rest of the rules — on the day after that day.

3. Rules amended

These rules amend the *Non-contentious Probate Rules 1967*.

4. Rule 2 amended

- (1) In rule 2(1) delete the definitions of:
rule
the Act
the Registry
- (2) In rule 2(1) delete the definition of *the Wills Act 1837* and “and” after it.
- (3) In rule 2(1) insert in alphabetical order:

Act means the *Administration Act 1903*;

prescribed fee means the fee prescribed by the *Supreme Court (Fees) Regulations 2002*;

Registry means the Probate Office of the Supreme Court.

- (4) In rule 2(1) delete “words” and insert:

(2A) Words

5. Rule 8 amended

In rule 8:

- (a) after paragraph (i) insert:
 - (iia) the date of birth of the testator; and
- (b) delete paragraphs (iii) and (iv) and insert:
 - (iii) that the testator has left a will and the date the will was executed; and
 - (iv) whether there is any codicil to the will and, if there is, the date the codicil was executed; and
- (c) after paragraph (v) insert:
 - (via) that the testator did not marry after the will was executed; and
 - (vib) whether the testator was married at the time the will was executed; and
 - (vic) if the testator was married at the time the will was executed, whether the marriage ended for the purposes of the *Wills Act 1970* section 14A(2) after the will was executed; and

- (vid) if the testator was married at the time the will was executed and the marriage did end for the purposes of the *Wills Act 1970* section 14A(2) after the will was executed, the date the marriage ended; and
- (vie) that the will and any codicil sought to be proved is not revoked by any later will; and

(d) after each of paragraphs (i), (ii), (v), (vi) and (vii) insert:

and

6. Rule 17 amended

In rule 17(1):

- (a) delete “section 21 of the *Wills Act 1837*, or”;
- (b) delete “(whichever is applicable)”.

7. Rule 20 amended

In rule 20(1) delete “section 9 of the *Wills Act 1837*, as explained by Act 18 Vict. No. 13 or”.

8. Rule 21 amended

In rule 21 delete “either of the following provisions apply, namely, section II of the *Wills Act 1837*, as amended by the *Wills (Soldiers, Sailors and Airmen) Act 1941*, or Part VI of the *Wills Act 1970*,” and insert:

the *Wills Act 1970* Part VI applies,

9. Rule 43B replaced

Delete rule 43B and insert:

43B. Lawyer’s costs for non-contentious probate applications

Subject to the *Legal Profession Act 2008* Part 10, law practices (as defined in that Act) are entitled to charge and shall be allowed out of the estates of deceased persons —

- (a) the remuneration they are entitled to charge under that Act; and
- (b) proper disbursements necessarily made or incurred,

in respect of the non-contentious administration of those estates.

10. Second Schedule deleted

Delete the Second Schedule.

Dated: 23 November 2009.

Judges' signatures:

W. S. MARTIN

CAROLYN JENKINS

M. J. MURRAY

RALPH SIMMONDS

N. J. OWEN

P. D. BLAXELL

C. WHEELER

ANDREW BEECH

JOHN McKECHNIE

D. W. NEWNES

N. P. HASLUCK

K. J. MARTIN

C. J. McLURE

G. MURPHY

C. PULLIN

S. D. HALL

ERIC M. HEENAN
