

**SUPREME COURT ACT 1935 AND ADMINISTRATION ACT 1903
NON-CONTENTIOUS PROBATE AMENDMENT RULES 1989**

Made by the Judges of the Supreme Court under the *Supreme Court Act 1935* and the *Administration Act 1903*.

Citation

1. These rules may be cited as the *Non-contentious Probate Amendment Rules 1989*.

Commencement

2. These rules shall come into operation on the day on which the *Wills Amendment Act 1989* comes into operation.

Principal Rules

3. In these rules the *Non-contentious Probate Rules 1967** are referred to as the principal rules.

[*Reprinted in *Government Gazette of 18 February 1987 at pp. 418 to 436.*]

Rule 20 amended

4. Rule 20 of the principal rules is amended—

- (a) by inserting after the rule designation "20." the subrule designation "(1)"; and
- (b) by inserting the following subrule—
 - " (2) Nothing in rules 15, 16, 17 or 18 applies to any document to which rule 20A applies. "

Rule 20A inserted

5. After rule 20 of the principal rules, the following rule is inserted—

Additional requirements where Part X of the *Wills Act 1970* is relevant

- " 20A. (1) Where it appears that Part X of the *Wills Act 1970* may apply to any document of a testamentary nature the applicant, in addition to any other requirements relating to an application for a grant, shall by affidavit, accompanied by such document or documents, set forth—
- (a) the gross value of the estate wherever situated;
 - (b) all material facts relating to the circumstances in which the document is said to have come into existence, or to have been altered, revoked or revived and of the intention of the deceased relating thereto; and
 - (c) the full names, ages and addresses of all persons who may be prejudiced by—
 - (i) the application of that Part where the applicant seeks to apply that Part; or
 - (ii) the non-application of that Part where the applicant seeks not to apply that Part,
 and, for each such person, the reason why it is said that the person may be prejudiced.
- (2) The applicant shall exhibit to an affidavit the consents of all persons who may be prejudiced as on such terms and subject to such conditions as the Registrar thinks fit, mentioned in subrule (1) (c) but the Registrar may dispense with the consent of a person who may be so prejudiced if he is satisfied that—
- (a) the person—
 - (i) is not of full age or is incapable of consenting by reason of mental illness, defect or infirmity; or
 - (ii) cannot be found; or
 - (b) it is otherwise just or expedient to do so.
- (3) Where the gross value of the estate wherever situated exceeds \$100 000 and the Registrar has reason to believe that one or more of the provisions of Part X of the *Wills Act 1970* may apply, the Registrar shall, upon being satisfied that all inquiries that he thinks fit to make have been answered, give a direction that—
- (a) the application be brought before a Judge by summons or before the Court on motion;
 - (b) a notice of the summons or motion referred to in paragraph (a) be given to such person or persons, other than the applicant, as the Registrar thinks fit. "

Dated the 22nd day of December 1989.

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