



Government Circular No 176/92

THE ADMINISTRATION OF ESTATES ACT 1990

THE PROBATE (AMENDMENT) RULES 1992

Coming into operation

1st May 1992

In exercise of the powers conferred on the Deemsters by section 9 of the Administration of Estates Act 1990 (a), and of all other enabling powers, the following Rules are hereby made:-

Citation and commencement

1. These Rules may be cited as the Probate (Amendment) Rules 1992 and shall come into operation on the 1st May 1992.

Amendments of the Probate Rules 1988

2. (1) The Probate Rules 1988 (b) are amended as follows.

(2) In rule 2(1) (interpretation) -

(a) in the definition of "the Act", for "1960" substitute "1990";

(b) omit the definitions of "statutory guardian" and "testamentary guardian".

(3) In rule 4(1)(b) (application for grant), for "section 24" substitute "section 35"

(4) In rule 19(1) and (4) (grant in case of intestacy), for "section 45" substitute "section 52".

(5) For rule 21(1) substitute -

"(1) Subject to paragraphs (1A), (2) and (3), where on an application for probate power to apply for a like grant is to be reserved to such other of the executors as have not renounced probate, notice of the application shall be given to the executor or executors to whom power is to be reserved; and unless the Court otherwise directs, the oath shall state that such notice has been given.

(a) 1990 c.17 (b) GC 166/88

(1A) Where power is to be reserved to executors who are appointed by reference to their being partners in a firm, and not by their names, notice need not be given to them under paragraph (1) if probate is applied for by another partner in that firm."

(6) In rule 23(1) (additional personal representatives), for "section 12(2)" substitute "section 4(4)".

(7) In rule 24(1) (grant where deceased domiciled outside Island), after "grant" insert ", limited in such way as the Court may direct,".

(8) In rule 26(1) (grants on behalf of minors), for the words from "both parents" onwards substitute "-

(a) a parent of the minor who has parental responsibility for him by virtue of section 3 or 4 of the Family Law Act 1991(c), or by virtue of an adoption order; or

(b) a guardian of the minor who is appointed or deemed to have been appointed under section 6 or 7 of, or paragraph 4 of Schedule 4 to, that Act."

(9) For rule 26(3) (appointment of guardian) substitute -

"(3) The Court may by order appoint a person to obtain administration for the use and benefit of the minor, limited as aforesaid, in default of or jointly with any person mentioned in paragraph (1) or (2); and the person intended shall file an affidavit in support of his application to be appointed."

(10) In form 1 in the Schedule, in paragraph 6, for "section 45 of the Administration of Estates Act 1960" substitute "section 52 of the Administration of Estates Act 1990".

MADE this 22nd day of April 1992

J. W. Corrin

Her Majesty's First Deemster
and Clerk of the Rolls

H. W. Callow

Second Deemster

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules make minor amendments to the Probate Rules 1988. They are principally consequential on the Administration of Estates Act 1990 (rule 2(1)(a), (3), (4), (5) & (10)) and the Family Law Act 1991 (rule 2(1)(b), (8) & (9)). Provision is also made for notice to executors to whom power to prove a will is to be reserved (rule 2(6)), and enabling a grant in respect of a person who died domiciled outside the Island to be limited in such way as the court thinks fit (rule 2(7)).

