SUPPLEMENT No. 3
TO
THE CYPRUS GAZETTE No. 3802 OF 6TH JANUARY, 1955.
SUBSIDIARY LEGISLATION.

No. 1. THE ADMINISTRATION OF ESTATES RULES, 1955.

R. P. ARMITAGE,
Governor.

In exercise of the powers vested in me by section 56 of the Administration of Estates Law, 1954, I, the Governor, with the advice and assistance of the Chief Justice, do hereby make the following Rules :— 43 of 1954.

Preliminary.

1. These rules may be cited as the Administration of Estates Rules, 1955. Title.

2. In these rules— Definitions.

"President" means the President of the District Court.

Deposit of Wills.

3.—(1) Any will to be deposited must be delivered to the probate registrar by the testator in person. Delivery of will to probate registrar.

(2) In case the testator is not personally known to the probate registrar he must be identified by affidavit sworn by someone personally known to the probate registrar. No fee shall be charged for this affidavit.

(3) The will must be delivered enclosed in an envelope, which may be obtained from the probate registrar free of charge.

(4) The envelope in which the will is enclosed shall be sealed by the probate registrar with the seal of the Court.

4.—(1) The testator shall, in the presence of the probate registrar, sign his name or (if illiterate) put his mark to an endorsement on the envelope in which the will is enclosed, to the following effect :— Identification of will and testator.

"This sealed packet contains the last will, or codicil to the last will, or last will and codicil thereto, (*as the case may be*) bearing date..... (*if more than one paper is enclosed, give the date of each respectively*) of *A.B.* of....., and is delivered by me for safe custody in the registry of..... to remain deposited there until after my decease".

(*Sgd.*) *A.B.*

(2) The affidavit (if any) provided in rule 3 (2) shall be subjoined to the endorsement on the envelope and shall be to the following effect :—

"I, *C.D.*, of....., make oath and say that the signatory to the above endorsement is *A.B.* of.....".

(*Sgd.*) *C.D.*

Sworn before me on.....

(*Sgd.*) *E.F.*
Probate Registrar of.....

(3) The probate registrar shall annex to the endorsement and the affidavit (if any) a minute to the following effect :—

"Deposited by *A.B.* who is personally known to me".

or, (*if such is the case*),

"Deposited by *A.B.* who has been identified to me by *C.D.* who is personally known to me".

Dated.....

(*Sgd.*) *E.F.*
Probate Registrar of.....

Register of wills and alphabetical list.

5.—(1) When a will is deposited, the probate registrar shall forthwith note the deposit in a register of wills deposited by living persons to be kept for the purpose. The register shall have the following headings :—

No. *Date* *Deposited by* *Remarks*

(*a*) Under the heading " No.", the number to be entered shall be the serial number of the will deposited in the registry.

(*b*) Under the heading " Date ", the date to be entered shall be the date on which the will is deposited.

(*c*) Under the heading " Deposited by ", in addition to the full name of the testator depositing his will, his place of residence shall also be shown.

(*d*) Under the heading " Remarks ", there shall be noted, in the event of the will being removed from the depository of wills kept under the Law, the date of and the reason for the removal, and the place to which it has been removed.

(2) The serial number under which the deposit is noted in the register shall be marked on the envelope in which the will is enclosed.

(3) The probate registrar shall keep an alphabetical list of testators who have deposited wills under rule 3.

Receipts.

6. The probate registrar shall give to the testator depositing his will a receipt to the following effect :—

" Received to-day for custody from *A.B.* of..... an envelope purporting to contain his will, which I have registered in my book under No..... "

Dated..... (*Sgd.*) *E.F.*
Probate Registrar of.....

Attendance of probate registrar on testator.

7.—(1) The President or, in his absence, a District Judge may, where he so thinks fit, direct the probate registrar to attend a person wishing to deposit a will who is unable to come to the registry for the purpose.

(2) Before making any such direction the President or, in his absence, a District Judge shall ensure that sufficient provision has been made for the probate registrar's travelling expenses.

Opening of deposited will.

8.—(1) A will may not be opened in the lifetime of a testator except with his consent ; and after a will has been opened it shall be re-sealed and endorsed as required by rules 4 and 5 unless a testator revokes such will by endorsement thereon.

(2) A will may be opened after the death of the testator by his executor or other interested person.

(3) No will shall be opened under this rule except in the presence of the probate registrar who must be satisfied of the testator's identity (if alive) or of his death and of the identity and interest of the persons desiring to have the will opened. For this purpose the probate registrar may require evidence as to death or identity upon affidavit.

Applications for grants.

The making and filing of application for grant.

9.—(1) Application for a grant shall be made at the registry of the District Court within the jurisdiction of which the deceased had his fixed place of abode at the time of death, and if the deceased had no such place of residence, the application shall be made to the probate registrar of Nicosia.

(2) Such application shall be in writing and signed by the applicant and may be made through an advocate or in person by executors or any other person entitled to a grant and shall be on Form 1 of Appendix A.

(3) The probate registrar shall keep a book in which all applications filed under this rule shall be entered and every application shall be given a serial number.

Enquiries by probate registrar before grant.

10.—(1) The probate registrars shall not allow probate or letters of administration to issue until all inquiries which they may see fit to institute have been answered to their satisfaction. The probate registrars are, 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.

(2) The probate registrar shall require evidence, in addition to that offered by the applicant, where additional evidence in that behalf seems to the probate registrar necessary or desirable, in regard to the identity of the deceased or of the applicant, or in regard to the relationship of the applicant to the deceased, or in regard to any person or persons in existence with a right equal or prior to that of the applicant to the grant of probate or administration sought by the applicant, or in regard to any other matter which may be considered by the probate registrar relevant to the question whether the applicant is the proper person to whom the grant should be made :

Provided that the probate registrar may refuse the grant unless the applicant produces the required evidence on these points or any of them.

Applications for Probate and Administration with will annexed.

Affidavit to lead grant of probate or letters or administration with will annexed.

11. An application of an executor or of an administrator with will annexed shall be accompanied by an affidavit made by such applicant exhibiting the will required to be proved and such will shall be annexed to the affidavit and marked by the applicant and the person before whom the affidavit is sworn. Such affidavit shall be in Form 2 or Form 3 of Appendix A as the case may be.

Examination of will as to its execution.

12.—(1) On receiving an application for probate or for administration with will annexed the probate registrar shall inspect the will, and see whether it appears to be signed by the testator, or by some other person in his presence, and by his direction, and to be subscribed by two witnesses according to the enactments relative thereto, and shall not proceed further if the will does not appear to be so signed and subscribed.

(2) If the will appears to be so signed and subscribed, the probate registrar shall then refer to the attestation clause (if any), and consider whether the wording thereof states the will to have been, in fact, executed in accordance with those enactments.

Proof of execution where attestation clause defective.

13. If there is no attestation clause, or if the attestation clause is insufficient, the probate registrar shall require an affidavit from at least one of the subscribing witnesses, if either of them is living, to prove that the will was, in fact, executed in accordance with those enactments. The affidavit shall be carefully typed and form part of the probate, so that the probate may be a complete document on the face of it.

Where will not executed according to law.

14. If on perusal of the affidavit it appears that the will was not, in fact, executed in accordance with those enactments, the probate registrar shall refuse probate.

Evidence on failure of attesting witnesses.

15. If both the subscribing witnesses are dead, or if from other circumstances such an affidavit cannot be obtained from either of them, resort for such an affidavit shall be had to other persons (if any) present at the execution of the will ; but if no such affidavit can be obtained, proof shall be required of that fact, and of the handwriting of the deceased and of the subscribing witnesses, and also of any circumstances raising a presumption in favour of the due execution of the will.

Will of blind or illiterate testator.

16. Where the testator was blind or illiterate, the probate registrar shall not grant probate of the will, or administration with the will annexed, unless the probate registrar is first satisfied, by proof of what appears on the face of the will that the will was read over to the deceased before its execution, or that he had at that time knowledge of its contents.

Interlineations, erasures, obliterations.

17. The probate registrar, on being satisfied that the will was duly executed, shall carefully inspect it to see whether there are any interlineations or alterations, or erasures, or obliterations appearing in it, and requiring to be accounted for. Interlineations, alterations, erasures, and obliterations are invalid unless they existed in the will at the time of its execution, or unless, if made afterwards, they have been executed and attested in the mode required by the said enactments, or unless they have been made valid by the re-execution of the will, or by the subsequent execution of some codicil thereto. Where interlineations, alterations, erasures, or obliterations appear in the will (unless duly executed or recited in or otherwise identified by the attestation clause) an affidavit in proof of their having existed in the will before its execution shall be filed. If no satisfactory evidence is adduced respecting the time when an erasure or obliteration was made, and the words erased or obliterated are not entirely effaced, and can, on inspection of the will, be ascertained, they shall form part of the probate. Where any words have been erased which might have been of importance, an affidavit shall be required.

Documents referred to in a will

18.—(1) Where a will contains a reference to any 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 probate registrar shall require the production of the document, with a view to ascertaining whether or not it is entitled to probate ; and if it is not produced, a satisfactory account of its non-production shall be proved. A document cannot form part of a will unless it was in existence at the time when the will was executed.

or annexed or attached.

(2) If there are vestiges of sealing wax or wafers, or other marks on the will, leading to the inference that some document has been at some time annexed or attached thereto, a satisfactory account of them shall be proved, and the production of the document shall be required, and if it is not produced, a satisfactory account of its non-production shall be proved.

Form of affidavits.

19.—(1) With such variation as circumstances may require, the affidavit of an attesting witness shall be in Form 4 of Appendix A.

(2) An affidavit required under rule 15 shall be in Form 5 of Appendix A.

Codicils.

20. The rules respecting wills apply equally to codicils.

Applications for Administration without will annexed.

Affidavit to lead grant on intestacy.

21. An application for administration where there is no will shall be accompanied by an affidavit in Form 6 of Appendix A.

Administration bond.

22.—(1) The person to whom administration is granted shall give a bond, with two or more responsible sureties, to the probate registrar for the time being conditioned for duly collecting, getting in, and administering the personal property of the deceased, such sureties to be to the satisfaction of the probate registrar.

(2) The probate registrar may, if he thinks fit, take one surety only.

(3) The bond shall be in a penalty of double the amount under which the estate of the deceased is sworn, unless the probate registrar in any case thinks it expedient to reduce the amount.

(4) The probate registrar may also in any case direct that more bonds than one shall be given, so as to limit the liability of any surety to such amount as the probate registrar thinks reasonable.

(5) The bond and the justification for sureties, with such variations as may be necessary, shall be in Forms 7, 8 or 9 of Appendix A.

When probate or letters of administration may issue.

23. No probate or letters of administration shall issue until after the lapse of seven days in the case of a will or will annexed, and fourteen days in the case of administration from the filing of the application unless under the direction of the Court.

Objections to and the right to a grant.

Caveats.

24.—(1) A caveat against a grant of probate or administration may be entered in the principal probate registry or in any probate registry.

(2) On a caveat being entered in a registry the probate registrar shall immediately send a copy thereof to the principal probate registry to be entered among the caveats in that registry.

(3) The principal probate registrar shall send a copy of caveats received from probate registries, other than the registry to which the application for a grant was made, to the latter registry.

(4) A caveat shall state the interest of the caveator in the estate of the deceased.

(5) No grant shall be made to an applicant after a caveat has been entered against his application unless—

(*a*) the caveator withdraws the caveat ; or

(*b*) the caveator has for three months brought no action for administration ; or

(*c*) the Court in an action between the applicant and the caveator orders a grant to issue to the applicant.

(6) A caveat shall be in Form 10 of Appendix A.

(7) A notice withdrawing a caveat may be filed either in the principal probate registry or in the probate registry where the application for a grant is made, and the registry receiving the notice of withdrawal shall send in a copy of such notice to the other.

Subsequent application only after disposal of first.

25. No second or subsequent application for a grant shall be received by a probate registrar so long as the first application has not been disposed of, and the probate registrar shall inform a second or subsequent applicant that such applicant must proceed by entering a caveat against the first applicant.

When application is deemed to be disposed of.

26. An application for grant is disposed of when such application is withdrawn or the probate registrar and (if the application is submitted for review) the Court have refused a grant.

Renunciation.

27. The renunciation of an executor or an administrator with will annexed shall be in Form 11 of Appendix A.

Limited grants.

28. Before making a limited grant, a probate registrar shall obtain the directions of the Court.

Grant to an attorney.

29. In the case of a person residing out of Cyprus letters of administration, or letters of administration with will annexed, may be granted to his attorney acting under a power of attorney duly proved and filed in the Court.

Priority of right to grant.

30. The priority of right to a grant of probate or letters of administration with will annexed shall be as follows :—

1. Executors.
2. Residuary legatees and devisees.
3. Legatees, devisees, creditors.
4. The Crown.