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| FORM 5 | | | | | |
| AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR PROBATE | | | | | |
| Rules 40 and 41 | | | | | |
| IN THE SUPREME COURT OF TASMANIA | | | | | |
| PROBATE REGISTRY | | | | | |
|  | | | | | |
| In the matter of the Estate of: | | FULL NAME  *[full name of deceased including, in brackets, “in the Will called…” and/or “also known as…” if the name of the deceased differs in the Will or if the deceased is known by any other name]* | |
| Date of death: | | 00/00/0000 | |
| Last known residential address of deceased: | | address  *[full address of the deceased including, in brackets, “in the Record of Death noted as…” if the address of the deceased differs in the Record of Death]* | |
| \*I/\*We, | | |  |
| Full name of applicant: | | | FULL NAME  *[full name of applicant including, in brackets, “in the Will called…” and/or “also known as…” if the name of the applicant differs in the Will or if the applicant is known by any other name]* |
| Address of applicant: | | | address |
| \*Full name of applicant:  *[repeat for more applicants]* | | | FULL NAME  *[full name of applicant including, in brackets, “in the Will called…” and/or “also known as…” if the name of the applicant differs in the Will or if the applicant is known by any other name]* |
| \*Address of applicant:  *[repeat for more applicants]* | | | address |
| \*make oath and say/\*do solemnly and sincerely declare and affirm: | | | |
|  | The deceased died at suburb or town in state on 00/00/0000.  *[If the date of death is between two dates please state “the deceased was last seen alive on 00/00/0000 and their body found on 00/00/0000”]* | | |
|  | The Record of Death annexed to this affidavit and marked “A” is an original extract of the Record of Death of the deceased. | | |
|  | The deceased left an estate in Tasmania. | | |
|  | The document/s\* exhibited to this affidavit \*is/\*are the true and original last valid Will  *[insert details of any codicil or any other testamentary disposition forming part of the Will]*  of the deceased.  The Will is dated 00/00/0000. | | |
|  | The details of each subscribing witness to the Will are as follows:   |  |  | | --- | --- | | Full name: | FULL NAME | | Full name: | FULL NAME | | | |
|  | The deceased was aged 00 at the date of execution of the Will and 00 at the date of death.  *[if the deceased was less than 18 years of age at the date of execution of the Will or at the date of death then make such statements and annex such materials as required by rule 44]* | | |
|  | No further explanation or clarification of the validity of the Will is necessary.  *[if further explanation or clarification of the validity of the Will or any part of the Will is required (including under rules 43, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54) then make any statements and annex any materials relevant in the circumstances, for example: an affidavit of due execution or an order of the Court]* | | |
|  | The Will of the deceased has not been revoked. | | |
|  | The deceased was:  *[select all those which apply]*  \*single  \*married to full name on 00/00/0000  *[repeat for each marriage]*  \*divorced from full name on 00/00/0000, when the decree nisi became absolute  *[repeat for each divorce]*  \*widowed  \*in a significant relationship within the meaning of the Relationships Act 2003 with full name  \*never a party to a deed of relationship, registered under Part 2 of the Relationships Act 2003  \*a party to a deed of relationship, registered under Part 2 of the Relationships Act 2003 with full name on 00/00/0000  *[repeat for each deed of relationship]*  \*was party to a revoked deed of relationship, registered under Part 2 of the Relationships Act 2003 with full name on 00/00/0000 and revoked on 00/00/0000  *[repeat for each revocation of deed relationship]*  *[or make such statements and provide such materials as required by rule 45]* | | |
|  | \*I am/\*We are 18 years of age or older. | | |
|  | \*I am/\*We are the role.  *[indicate the capacity in which the role of executor is claimed e.g. “I am the sole executor named in the Will” or “I am the substitute executor named in the Will”]* | | |
|  | The reason/s\* the executor/s\* \*is/\*are not applying for probate \*is/\*are:  \*executor full name predeceased the deceased  *[repeat for each deceased executor]*  \*executor full name signed a deed of renunciation on 00/00/0000 which is annexed and marked “Ren-1”  *[repeat for each executor that renounced]*  \*executor full name signed a notice reserving leave to apply on 00/00/0000 which is annexed and marked “Res-1”  *[repeat for each executor that reserved leave]*  \*executor full name does not have capacity, annexed and marked “Cap-1” is the relevant documentation  *[repeat for each executor that does not have capacity]*  \*other reason pursuant to \*rule…/\*Registrars discretion/\*Court Order, annexed and marked “Oth-1” is the relevant documentation  *[repeat for each executor]* | | |
|  | Notice of Intention to make this application, a true copy of which is annexed and marked “B” was published on the Supreme Court of Tasmania’s website on 00/00/0000.  *[do not sign this affidavit until 14 days has elapsed since the Notice was published]* | | |
|  | \*I/\*We have made \*no other/\*another application for a grant in respect of the estate of the deceased.  *[if another application has been made then please set out the particulars of the application and the result]* | | |
|  | \*I/\*We will administer according to law all the estate which by law devolves to and vests in \*me/\*us as personal representative/s\* of the estate of the deceased. | | |
|  | \*I/\*We annex and mark “C” an inventory of the assets and liabilities of the deceased’s estate held in the name of the deceased and all aliases of the deceased. | | |
|  | The values set out in the inventory are fair and reasonable at the date of swearing this affidavit and the liabilities set forth in the inventory are justly due at the date of swearing this affidavit. | | |
|  | In the event of finding that the assessment is inaccurate or incomplete in a way that materially effects the value of the estate \*I/\*We will provide a further affidavit annexing a revised inventory correcting any inaccuracy or deficiency. | | |
|  | \*I/\*We undertake to provide an updated inventory of the real and personal estate of the deceased and deliver up the grant to the Court whenever required by law to do so. | | |
|  | *[Please* add *any further relevant information required to allow the Court to process your application]* | | |
| \*SWORN/\*AFFIRMED by | | | FULL NAME |
| at SUBURB OR TOWn in STATE | | |  |
| dated 00/00/000 | | | ……………………………………………………. |
| Before me: | | | …………………………………………………….  FULL NAME  \*SOLICITOR/\*JUSTICE OF THE PEACE |
| \*SWORN/\*AFFIRMED by | | | FULL NAME |
| at SUBURB OR TOWN in STATE | | |  |
| dated 00/00/000 | | | ……………………………………………………. |
| Before me:  *[repeat for more applicants]* | | | …………………………………………………….  FULL NAME  \*SOLICITOR/\*JUSTICE OF THE PEACE |
| NOTES: | | | |
| Please insert details relevant to your application where blue text appears. | | | |
| Text with a \* next to it indicates that it is an option. You must select the applicable option/s and/or delete the \*options which are not applicable | | | |
| If a section of the form does not apply to your application please simply state “not applicable” next to the relevant section. | | | |
| Guidance on completing this form is contained in [square brackets] and *italics*. Please delete the guidance which appears in square brackets and is italicized from your final draft. | | | |
| Otherwise, please do not amend the format or content of this form. | | | |
| TAKE NOTE:  If you are making this application more than 2 years after the date of death of the deceased please refer to Rule 38 and include the following matters in your affidavit:   1. An inventory of assets and liabilities of the deceased’s estate at the time of the deceased’s death; 2. An inventory of assets and liabilities of the deceased’s estate at the date of the making of the application; 3. The reason why an application in respect of the deceased has not been made previously; 4. The reasons why the application is now being made. | | | |