

SUPREME COURT OF TASMANIA

Fact Sheet

Probate Rules 2017

- The [2017 Rules](#) are available on Tasmanian Legislation Online prior to commencement “as made”.
- The 2017 Rules aim to codify all rules relating to probate. There is no longer a catch all provision referring to the Imperial Act (rule 102 of the Probate Rules 1936).
- The order of priority for letters of administration has changed (rules 18 and 19).
- A person without capacity who is entitled to apply for a grant can be passed over if all persons with an interest in the estate consent (rule 25).
- The process involved with caveats has been updated. Caveator’s are now required to provide a statement listing their grounds of objection to a grant being issued and failure to do so within the specified time will cause a caveat to lapse (rules 80 and 81).
- A list of current caveats can now be found on the [Caveats page](#) on the Supreme Court of Tasmania website. Practitioners can search this page rather than calling the Court in order to obtain the information for an affidavit of caveat search for a resale application.
- Probate Registry search procedures remain the same but the category of persons entitled to obtain copy documents has been amended (rule 13(2)).
- The 2017 Rules expand the role of the Registrar so that he or she can deal with certain matters that must be referred to a judge under the Probate Rules 1936 (e.g. rules 7, 10, 12, 27, 32 and 58).
- Rule 10 of the 2017 Rules allows the Registrar to request any evidence he or she considers necessary in considering whether to issue a grant.

Probate Forms 2017

- The Probate Rules 2017 (“the 2017 Rules”) introduce new approved forms (“the 2017 Forms”) to be used for all applications. The 2017 Forms are located on the Supreme Court of Tasmania’s website at [Probate Forms 2017](#).
- Each application must commence with a Notice of Intention being published on the [Notice of Intention page](#) on Supreme Court of Tasmania’s website (rule 33). The notice should be in Form 2. An application cannot be signed and lodged until 14 days after publication of the notice (see Circular 14 of 2017 for information on how to file a notice).
- All applications must consist of the following forms: Application for grant (form 4), the appropriate Affidavit for the type of application (forms 5, 6, 7 and 8), Inventory of assets and liabilities (form 10) and Notice of Intention (form 2). Additional documents may be required depending on the type of application (e.g. original Record of Death, Will or Foreign Grant etc.) or the particular circumstances (e.g. Affidavit of due execution etc..)
- Additional forms have been created e.g. Affidavit of plight, condition and finding (form 27).
- Only the witness to an affidavit is required to sign the annexures to an affidavit. Both the applicant and the witness must sign the exhibits to an affidavit (e.g. Will, Codicil or other testamentary document).
- Renunciations, notices to reserve leave and consents must now be signed before a legal practitioner or a Justice of the Peace (forms 11, 12, 13 and 15).
- Transitional arrangements are referred to in Circular 14 of 2017 dated 31 October 2017.

