

CHAPTER 219.

PROBATES (RE-SEALING).

PROBATES (RE-SEALING) RULES.

RULES OF COURT MADE UNDER SECTION 7.

36 Gaz. 165.
[E. Non-
Contentious
Probate
Rules,
rr. 92-105.]

1. These Rules of Court may be cited as the Probates (Re-sealing) Rules.

2. Application to seal a grant of probate or letters of administration or copy thereof under the Law may be made to the President or a District Judge of any District Court within the jurisdiction of which the deceased had property at the time of his death.

3.—(1) The application may be made by the executor or administrator or the attorney (lawfully authorized for the purpose) of such executor or administrator, either in person or through an advocate.

(2) Where the application is made by an attorney, the power must be filed with the application. The power must give authority to re-seal the grant under the Probates (Re-sealing) Law, Cap. 219.

4. The application shall be by summons (Form No. 1 in the Appendix) and must be accompanied by an oath of the executor or administrator or attorney in the Form No. 2 in the Appendix or as near thereto as the circumstances of the case will permit.

5.—(1) The day to be fixed for the hearing of the application must be not less than seven days after all the advertisements prescribed in paragraph (2) of this rule are published.

(2) Notice of the application containing a note of the day fixed for the hearing shall be advertised in the Gazette and in a Greek and a Turkish newspaper published in Nicosia, and copies of the issues in which the notice has appeared shall be attached to the application before the day fixed for the hearing. The advertisement shall be in the Form No. 3 in the Appendix.

6. On application to seal letters of administration the administrator or his attorney shall give bond in Form No. 4 in the Appendix to cover the property of the deceased within the Colony. The same practice as to sureties and the amount of penalty in the bond shall be observed as in the case of applications for administration.

7. Application by a creditor under section 5 of the Law shall be by summons to the Court in which the application for re-sealing has been filed. A creditor's application shall be supported by an affidavit setting out particulars of the claim.

8. In every case, and especially when the domicile of the deceased at the time of death as sworn to in the affidavit differs from that suggested by the description in the grant, the Court may require further evidence as to domicile.

9. If it should appear that the deceased was not at the time of death domiciled within the jurisdiction of the court from which the grant issued, the seal is not to be affixed unless the grant is such as would have been made by a District Court in Cyprus.

10. The grant (or copy grant) to be sealed and the copy to be deposited in the registry must include copies of all testamentary papers admitted to probate.

11. When application to seal a probate or letters of administration is made after the lapse of three years from the death of the deceased, the reason for such delay must be stated by affidavit.

12. Any application to re-seal a special or limited or temporary grant shall be heard by the President of the District Court either sitting alone or with a District Judge.

13. Notice of the sealing in Cyprus of a grant shall be sent to the court from which the grant issued.

14. When intimation has been received of the re-sealing of a Cyprus grant, notice of the revocation of, or any alteration in such grant is to be sent to the court by whose authority such grant was re-sealed.

15.—(1) Before sealing a probate or letters of administration under the Law the Registrar of the District Court shall file a certificate to the effect that the fee chargeable in Cyprus on grant of probate or administration under Appendix D to the Court Fees Order has, pursuant to section 4 (a) of the Law, been paid.

(2) If the fee paid falls short of the maximum chargeable under the said Appendix, the Registrar shall obtain an undertaking that any deficit in the fee which comes to light later will be paid up to such sum as together with the fee already paid would amount to the maximum fee chargeable under the said Appendix.

16. The following fees shall be charged in proceedings under the Law :—

On application to re-seal a grant—Same as on application for grant of probate or administration under the Court Fees Order.

See page 332.

Sealing fee—Same as on grant of probate or administration under the said Order.

For an advertisement in the *Gazette*—5s.

Other fees—Same as in analogous matters under the said Order.

17. All proceedings under the Law shall be entitled as follows :—

In the District Court of
Probate

Appl. No.

In the matter of the Probates (Re-sealing) Law, Cap. 219,
and

In the matter of A.B., deceased.

APPENDIX.

Form No. 1

PROBATES RE-SEALING FORM No. 1.

SUMMONS—(Rule 4).

(General Title as in Rule 17).

Let all parties concerned attend at the above-named Court on..... day the..... day of....., 19....., at..... o'clock in the forenoon on the hearing of an application by C.D. of..... (an executor *or as the case may be* of the above-named A.B. deceased) to re-seal the grant of probate (*or letters of administration, as the case may be*) made in the estate of the said A.B., late of.....

The facts on which the foregoing application is founded are stated in the affidavit of C.D. this day filed.

Dated the..... day of....., 19.....

(Sgd.) E.F.

This summons was taken out by E.F. of..... advocate of the said C.D.

Form No. 2

PROBATES RE-SEALING FORM No. 2.

OATH TO LEAD TO RE-SEALING —(Rule 4).

(General Title as in Rule 17.)

I, C.D. (*or* E.F.) of..... make oath and say :—

1. That a grant of probate of the will (*or* letters of administration of the estate) of A.B., late of....., deceased, was granted to me (*or* C.D.) by the..... Court at..... on the..... day of....., 19.....

2. That the said deceased died at..... on or about the..... day of....., 19....., and was at the time of his death domiciled at..... *within the jurisdiction of the said Court* (*words between asterisks to be struck out if inapplicable*).

3. That I am the attorney lawfully appointed of C.D. under his hand and seal, and am duly authorized to apply to this Court for the sealing of the said grant. (*This paragraph to be omitted if inapplicable*.)

4. That the value of the property of the above-named A.B. in Cyprus amounts to the sum of £..... and no more to the best of my knowledge, information, and belief.

5. That at the time of his death the said A.B. had property of the value of £..... at..... within the jurisdiction of the above-named District Court. Such property consisted of (*state here the nature of the property of the deceased*).

Sworn, etc.

(Sgd.) C.D. *or* E.F.

PROBATES RE-SEALING FORM No. 3.

Form No. 3

ADVERTISEMENT—(Rule 5).

(General Title as in Rule 17.)

Notice is hereby given that on..... day the..... day of....., 19....., at..... o'clock in the forenoon, application will be made to the above-named District Court for the re-sealing of the probate of the will (or letters of administration of the estate, *as the case may be*) of A.B., late of....., deceased, granted by the Court at....., on the..... day of....., 19.....

(Sgd.) E.F. advocate for C.D.

PROBATES RE-SEALING FORM No. 4.

Form No. 4

ADMINISTRATION BOND (WITH OR WITHOUT WILL)—(Rule 6).

Know all Men by these presents that we A.B. of..... C.D. of..... and E.F. of....., are jointly and severally bound unto the Registrar of the District Court of..... in the sum of..... pounds of good and lawful money of Cyprus to be paid to the Registrar of the said District Court for which payment well and truly to be made we bind ourselves and each of us, for the whole, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals.

Dated the..... day of..... in the year of our Lord one thousand nime hundred and.....

The condition of this obligation is such that if ⁽¹⁾the above-named A.B., the administrator [⁽²⁾with the will dated the..... day of..... annexed] by authority of the..... Court, at....., acting under letters of administration granted to..... on the..... day of....., and now about to be sealed in Cyprus under the Probates (Re-sealing) Law, Cap. 219, of the estate of K.L., late of..... deceased, who died on the..... day of....., do, when lawfully called on in that behalf, make, or cause to be made, true and perfect inventory of the estate of the said deceased in Cyprus which has or shall come to..... hands, possession, or knowledge, or into the hands and possession of any other person for....., and the same so made do exhibit, or cause to be exhibited, into the registry of the District Court of....., whenever required by law so to do, and the same estate do well and truly administer according to law; and further do make, or cause to be made, a true and just account of..... said administration whenever required by law so to do, then this obligation to be void and of none effect, or else to remain in full force and virtue.

Signed, sealed and delivered (L.S.)
by the within-named in the (L.S.)
presence of⁽³⁾..... (L.S.)

- (1) If the application was made by attorney and the administrator does not execute the bond, then for the words "the above-named A.B.", write "X.Y., of.....," giving the administrator's name.
- (2) Strike out words between brackets if inapplicable.
- (3) The witness should be some person other than the Registrar to whom the bond is given.