

Office of the Chief Registrar^U
High Court of Fiji
Government Buildings
S U V A

CHIEF REGISTRAR'S PRACTICE DIRECTION NO. 2 OF 1994

To: Fiji Law Society
All Legal Practitioners
Public Trustee
Trustee Corporation Ltd

Your attention is drawn to the problems experienced by the Principal Probate Registry and the Court on issue of grant on estate administration applications. These problems could be avoided if there is adherence to the Tristram & Cootes precedents and strict compliance with the provisions of the Succession, Probate and Administration Act Chapter 60 and the Non-Contentious Probate Rules 1987 [England] which are in force in Fiji as from 31st March 1988 by virtue of Order 1 Rule 11 of the High Court Rules 1988.

You are requested to comply with the following directions:-

1.0 PRINCIPAL PROBATE REGISTRY

All probate business, contentious and non-contentious is dealt with in the Registry at Suva pursuant to an order made by the Chief Justice.

1.1 Documents are not to be filed in any other High Court Registry.

1.2 Transfer of probate cases to the High Court Lautoka/Labasa would be subject to proper application by counsel for Order of transfer. A proper Order of transfer obtained enables the Registry concerned to create a Duplicate file with photocopies of documents, as their copy record.

2.0 DOCUMENTARY EVIDENCE

At times the Court is faced with the difficulty of making appropriate order (s) sought due to the lack of documentary evidence namely Death Certificates, Birth Certificates, Marriage Certificates and other supporting documents. In future all applications for estate administration are to comply with the following:-

2.1 Death Certificates

All applications for estate administration must be accompanied by a copy of the original death certificate which is to be annexed as an exhibit to the affidavit to lead grant to probate/administration. No Photocopies or certified copies will be accepted. If deceased person's spouse has predeceased him/her then the beneficiary applying must also annex a copy of the spouse's Death Certificate.

2.2 Marriage Certificates

All applications submitted by the lawful widow or widower of the deceased must be accompanied with a copy of the original marriage certificate. No photocopies or certified copies will be accepted.

2.3 Power of Attorney

Section 28 of Cap.60 empowers the Court to grant probate/administration to the executor's attorney or the executor where the latter is out of the jurisdiction. If Power of Attorney is used for grant of the order sought, the Donee is to register the Power of Attorney with the Registrar of Deeds and it is then lodged with the relevant documents.

2.4 Deed of Renunciation

In cases where beneficiaries have renounced their interests in the estate, proper instruments to that effect are to be drawn up. For proper format of the Deeds of Renunciation please see Appendix I - forms 181, 182, 183, 184 and 185 of Tristram & Coote's 27th edition. The maximum number of names on a Deed of Renunciation shall be 3.

3.0 PLACE OF DOMICILE

Deceased persons place of domicile is to be disclosed in the Oath of the intended Executor/Executrix/Administrator/Administratrix.

3.1 Reseal

If deceased person was domiciled abroad, then an application for reseal of grant issued at the local Court in the Jurisdiction of the place of domicile is to be presented here in Fiji and application for reseal of the same is to be made. A registered Power of Attorney must accompany the application.

3.2 Grant of Administration

Attention is drawn to rule 29 which governs applications for grants where the deceased died domiciled outside Fiji. Compliance with this rule may require evidence of the law of the country where the deceased died domiciled.

4.0 JURATS

The Jurat(s) are not to be isolated overleaf from the rest of the contents of such documents as the Affidavit, Justification of Sureties or any other document that requires the signature of a Commissioner for Oaths.

4.1 The Jurat must be completed by the Commissioner for Oaths on the same day it is signed before him, i.e. the place, date and the language which was used to explain the contents of the document to the deponent. These should be written in ink by the Witnessing Officer (Commissioner for Oaths, Justices of the Peace, Notaries Public).

4.2 Identification of Witnessing Officer
Proper identification of the Commissioner is necessary: If the signature of the Commissioner on documents is indecipherable he is to identify himself by use of a rubber stamp or otherwise write his name using the same ink below his signature.

4.3 Notaries Public
The Notaries Public must always exercise their duty/obligation with diligence when signing documents and such documents must be impressed with his/her notarial seal.

5.0 CITY AGENTS

All law firms outside Suva are requested to submit the names and addresses of their City Agents in Suva, to enable Probate Registry to send correspondence to appropriate offices. All documents filed at the Registry should bear the name of the City Agents.

6.0 ADVERTISEMENT

Prior to any application for Probate/Letters of Administration being filed, the intended executor/administrator shall advertise the intended application in a daily newspaper calling upon creditors to lodge any claim within 21 days.

Proof of the advertising shall be given in the affidavit of the applicant with a copy of the advertisement annexed thereto.

7.0 DOCUMENT PRESENTATION

Under Order 66 Rule 1 of the High Court Rules - Every document prepared by a party must be on A4 ISO paper of durable quality having a margin not less than one and a half inches wide, to be on the left side of the face of the paper.

6.1 Backing

All documents filed should have proper backing on a separate sheet of paper. The backing should include the name of the document, the solicitors lodging the application and name of the City Agent.

6.2 Paging

All pages of any document must be numbered and typed on only one side of the page.

The above directions apply to all estate administration applications lodged through a firm of Solicitors, the Public Trustee, The Trustee Corporation Ltd. or In Person.

Compliance with these instructions will ensure expeditious processing of applications.

M C Rai

CHIEF REGISTRAR

2 September 1994 - EFFECTIVE DATE