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REPUBLIC OF TRINIDAD AND TOBAGO

PRACTICE DIRECTION

ELECTRONIC FILING OF APPLICATIONS AND DOCUMENTS (NON-CONTENTIOUS PROBATE PROCEEDINGS)

This Practice Direction is issued pursuant to Rule 72 of the Non-Contentious Business Rules provided at the First Schedule to the Wills and Probate Act Chapter 9:03 (hereinafter “the Rules”).

The objective of this Practice Direction is to provide for the filing of applications and documents in non-contentious probate proceedings via remote and/or electronic means utilizing technology managed by the Judiciary of Trinidad and Tobago, as well as to:

- (a) Promote the use of technology in case flow management;
- (b) Improve and streamline the services of the Probate Registry to the benefit of all stakeholders;
- (c) Enable cost-effective and expeditious means of dealing with applications and sound management of the Court’s resources; and
- (d) Enhance access to justice.

Accordingly, the following measures shall take effect:

DEFINITIONS

1. For the purpose of this Practice Direction:
 - a. “Act” means the Wills and Probate Act Chapter 9:03.

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- b. “*application*” means the bundle(s) of documents containing the application front, affidavit, death certificate of the deceased, search, inventory, will (where applicable), attesting witness affidavit (where applicable), Registrar General’s receipt, document cover sheet and all other certificates and documents required to establish entitlement to apply for a grant of administration as required by law.
- c. “*document*” means an affidavit or any other document with or without exhibits filed as part of an application bundle or in response to a notice issued by the Registrar requiring corrections to an application.
- d. “*e-filing platform*” includes any website, software or electronic programme in use for the time being for the purpose of facilitating the filing of documents in non-contentious probate proceedings and operated by technology under the management of the Judiciary of the Republic of Trinidad and Tobago.

EFFECTIVE DATES

- 2. This Practice Direction shall take effect on May 12, 2021.

ACCURACY AND COMPLETENESS OF INFORMATION SUBMITTED

- 3. An attorney-at-law shall accurately complete all fields and provide all information required on the e-filing platform when filing an application or document. An attorney-at-law shall follow all instructions provided on the e-filing platform for its proper and efficient use.
- 4. An attorney-at-law shall satisfy himself as to the accuracy and completeness of the information submitted to the court and shall further bear responsibility for any errors or deficiencies of any application or document uploaded to the e-filing platform.

FILING OF APPLICATIONS AND DOCUMENTS

- 5. Save for where otherwise provided in an Act, Rule or Practice Direction, an attorney-at-law may file an application or document in non-contentious probate proceedings on behalf of a party for whom he is on record, or which has the effect of placing the attorney-at-law on record, through the use of the e-filing platform.
- 6. All applications or documents filed by electronic means are to be intitled with the words “*Electronically Filed*” on the top right-hand corner of the application or document and all applications or documents filed manually are to be intitled with the words “*Manually Filed*” on the top right-hand corner.

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7. An application or document may be filed manually at a designated court office in exceptional circumstances as determined and approved by the Registrar of the Supreme Court.
8. An application uploaded on the e-filing platform shall be uploaded as a complete and singular document and appropriately labelled.
9. An application or document must be uploaded in **PDF Format only**. An application or document, inclusive of its annexures or exhibits, must be legible, dated, properly paginated and organized to enable perusal without difficulty. An application or document must not be scanned upside down or otherwise than in the order the application or document is to be read.
10. An application or document uploaded to the e-filing platform must bear all necessary signature(s) and jurat(s) as required by the Act. Any affidavit filed in support of an application must be commissioned. Applications or documents uploaded without all necessary signature(s) and/or not commissioned shall not be processed and shall be deemed to be not filed.
11. Subsequent to an application or document being filed by electronic means a copy of the filed document bearing the stamp of the Court, shall be transmitted to the attorney-at-law via the email address provided at the time of filing.
12. Where an attorney-at-law experiences a technical and/or connectivity issue while filing, this must be immediately reported via the contact information and method provided on the e-filing platform.

SUBMISSION OF ORIGINAL DOCUMENTS

13. The attorney-at-law shall retain the original version of any application or document filed via the e-filing platform and shall make same available to the designated court office prior to the issue of the grant if so required by the Registrar.
14. Upon submission of the original version of an application or document to a specified court office, the attorney-at-law shall also provide a self-addressed registered pre-paid Trinidad and Tobago Postal Corporation (TTPost) letter-sized envelope for the purpose of posting the grant upon issuance. The attorney-at-law is solely responsible for the accuracy and/or completeness of all names and address information printed on the envelope, as well as ensuring that the appropriate postal fee is paid.

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15. In the case of an existing matter for which an original version of the application was already submitted to a court office, an attorney-at-law may make an appointment via HOJPB.Response@ttlawcourts.org to lodge a TTPost envelope at the court office for the issuance of a grant, where said pre-paid TTPost envelope was not previously received by the court office. The Registrar may also issue directions from time to time for the submission of these envelopes by a drop-off box situated outside of the Hall of Justice or Tobago Sub-registry.
16. The Registrar may require an applicant or attorney-at-law to lodge any original certificate or document exhibited to an affidavit or enclosed with an application by manual submission to a designated court location or registry and may withhold the issuance of a grant until such original certificates and/or documents are received and verified.
17. Where upon the manual submission of the original version of any application, certificate or document, the electronically filed and manually submitted original version of an application, certificate or document differ, the Registrar may withhold the issuance of a grant until the corresponding documents are received and verified.

CAVEATS

18. An attorney-at-law or member of the public may file a caveat against the issue of a grant for entry in the Probate Registry utilizing the e-filing platform.
19. Where a caveat uploaded on the e-filing portal does not meet the requirements as set out in the Act and the Rules made thereunder, the caveat shall not be processed or entered and shall be deemed to be not filed.
20. Where a caveat is not processed or entered and deemed to be not filed, the attorney-at-law or member of the public shall be notified via the email address provided at the time of filing.
21. A caveat shall be deemed to be entered at the time it is deemed filed pursuant to paragraph 25 below.

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PAYMENT OF FEES

22. The fees specified in Part I of the Third Schedule to the Act shall be deferred in respect of payment via the payment portal on the e-filing platform and shall be paid in such manner as the Registrar may direct.
23. Filing fees for caveats and appearances shall be waived until July 31, 2021 or such other date as the Chief Justice may direct.
24. Where a filing fee is deferred pursuant to paragraph 22 above, the court office shall keep a record of the fee chargeable and payment of same may be required prior to the issuance of a grant.

TIME OF FILING

25. Save for where a direction expressly provides for an application or document to be deemed not filed, an application or document filed via the e-filing platform shall be deemed to be filed for the purposes of the Rules and the Act on the date and time when the following requirements are satisfied:
 - a. The document is submitted via the e-filing platform and received within the regular business hours and days of the court office;
 - b. The filing fee is received by the court office (except where payment of the fee is suspended, waived or deferred); and
 - c. A copy of the submitted document bearing the filed stamp of the court is transmitted to the filing attorney-at-law;

And additionally in the case of a new application:

 - d. When upon processing the application, a search is conducted and the search reveals there is no pending application;
 - e. The Registrar General's receipt and document cover sheet are checked and found to form part of the uploaded application; and
 - f. The attorney-at-law receives a confirmation email with the assigned estate application number and an indication that the application has been processed.

26. An application or document uploaded to the e-filing platform outside of the regular business hours and days of the court office, on a weekend or a court or public holiday, is not deemed to be filed until the next business date of the court office and will not be processed until such date.

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27. An electronically filed application or document shall bear a received stamp of the court indicating the date and time received and a filed stamp of the court indicating the date the application or document is deemed to be filed.
28. An attorney-at-law shall lodge the following documents for the approval of the Registrar, by submitting same via email to Probate.online@ttlawcourts.org, or to an e-filing platform as directed by the Registrar:
 - a. Bond;
 - b. Warning; and/or
 - c. Citationand shall not file said documents prior to receiving said approval, evidenced by the Registrar's signature on the said document.
29. An attorney-at-law, prior to lodging a bond for approval, shall ensure that the bond bears all the necessary signatures and shall be endorsed confirming payment of stamp duty.
30. An attorney-at-law or member of the public as the case may be, who has received an approval for filing as required in paragraph 28 above, may file the approved document through the use of the e-filing platform.
31. A document requiring the approval of the Registrar prior to filing, which is submitted via the e-filing platform without receiving an approval as required in paragraph 28 above, shall not be processed and is deemed to be not filed.
32. An attorney-at-law or member of the public filing by electronic means is responsible for observing any applicable deadlines and shall endeavor to afford sufficient and/or reasonable time for processing by the court office, taking into account any circumstances which may exist at a particular time.

ELECTRONIC SERVICE OF ORDERS AND NOTICES

33. Any order or notice issued in non-contentious probate proceedings shall be served on an applicant or attorney-at-law in a like manner as provided under the Practice Direction published in Trinidad and Tobago Gazette Vol. 58 No. 103 dated July 23, 2019 titled "Electronic Orders" and save for where otherwise expressly stated, all directions contained therein shall, where applicable, apply to non-contentious probate proceedings.

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QUERY NOTICES

34. The Registrar may issue a notice to an attorney-at-law indicating any corrections required to be made to an application or document filed.
35. Where upon the issuance of a notice an attorney-at-law fails to comply within the time specified by the Registrar pursuant to Rule 72(6) of the Rules, the Registrar may strike out the application.
36. An application for reinstatement of the application under Rule 72(8) of the Rules must be filed in the proceedings within the time prescribed in the Rules and must set out the reasons for reinstatement. Where the Registrar so directs, the attorney-at-law must file evidence in support of an application for reinstatement.
37. Where an attorney-at-law fails to apply within the specified time for reinstatement of an application, or where the Registrar denies the reinstatement of an application, a new application for a grant may be filed by the applicant or by any person so entitled, through their attorney-at-law via the e-filing platform. Any new application for a grant must comply with the Act, Rules and this Practice Direction.

GENERAL

38. The court office may, at the direction of the Registrar of the Supreme Court, disregard any document filed or purported to be filed in the event of substantial non-compliance with any measure contained herein, the Act or with any Rule of Court. Any such direction shall be communicated to the filing attorney-at-law.
39. The Registrar may require an attorney-at-law or member of the public as the case may be to attend the physical court office on a scheduled date and time for the purpose of:
 - a. opening a Will;
 - b. depositing a Will;
 - c. making an application pursuant to section 5 of the Act, for a grant in an estate that does not exceed the sum of four thousand eight hundred dollars, without the representation of an attorney-at-law;
 - d. viewing physical files;
 - e. collecting of grants;
 - f. collecting office copies and/or certified copies; and
 - g. conducting any other in-person business the Registrar may deem necessary.

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40. An attorney-at-law and/or member of the public may request an appointment to conduct any business stated in paragraph 39 above by emailing the request to HOJPB.Response@ttlawcourts.org.
41. This Practice Direction is to be read in conjunction with any Practice Direction (COVID-19 Emergency Directions) in force for the time being.

Dated this 11th day of May, 2021

/s/ Ivor Archie
Chief Justice