



NOTICE TO PRACTITIONERS

RESEAL ADVERTISEMENTS

The purpose of this notice is to alert practitioners and others of the new procedure for advertising on the Supreme Court's website, rather than in a Melbourne daily newspaper, of intention to apply for the seal of the Court to be affixed to a foreign grant under section 83 of the **Administration and Probate Act** 1958.

The new procedure follows the recent amendment of the **Supreme Court (Administration and Probate) Rules** 2004 (the 'Principal Rules') by the Judges of the Supreme Court. The amending Rules, **Supreme Court (Chapter III Amendment No. 2) Rules** 2013, come into operation on 26 October 2013.

The change in procedure aims to increase the efficiency of the probate process by provision of a better service to the profession by increasing the visibility of advertisements and minimising the costs to applicants.

New Rule 5.04 sets out the requirement for the advertising of intention to apply for the seal of the Court to be affixed to a foreign grant under section 81(2) of the **Administration and Probate Act** 1958. Section 83 of that Act has been amended by Part 2 of the **Justice Legislation Amendment Act** 2013 to remove the previous requirement for advertising in a Melbourne daily newspaper and to provide instead for advertising in accordance with the Rules of Court. The statutory amendment also comes into operation on 26 October 2013.

Advertising on the Supreme Court's website is the method used in Victoria for advertising notice of applications for local grants of probate and letters of administration. It is therefore desirable that a similar requirement should apply to the advertisement of intention to apply for the seal of the Court to be affixed to a foreign equivalent.

New Rule 5.04 is modelled on Rule 2A.03 of the Principal Rules which provides for the advertising of a notice of intention to apply for a grant of probate to be duly posted on the Supreme Court's website. An equivalent process applies under Rule 4A.03 to grants of letters of administration on intestacy. With effect from 26 October 2013 a person intending to apply for the seal of the Court to be fixed to any probate, letters of administration, grant or order under section 83 of the Act must now post an advertisement on the Court's website. The Rule also sets out the requirements applying to that advertisement.

By virtue of Part III of the **Administration and Probate Act** 1958 and proclamations made under it, the new Rules will apply to grants made in all Australian jurisdictions, other than Victoria, and to grants made in specified overseas jurisdictions.

Rule 5.05 is a transitional provision which provides that an advertisement under section 83 of the Act made before the commencement of the amendments to section 83 is taken to be an advertisement made under the new Rule 5.04, and therefore compliant with the new requirements.

Guidance notes to assist in the posting of advertisements and examples can be found at <https://online.justice.vic.gov.au/poas/>

MICHAEL J. HALPIN
Registrar of Probates
18 September 2013