



NOTICE TO PRACTITIONERS

SUPREME COURT (ADMINISTRATION AND PROBATE) RULES 2004

The purpose of this notice is to advise practitioners of recent changes to the Chapter III Rules of the Supreme Court.

The Rules have been amended by the *Supreme Court (Chapter III Amendment No. 1) Rules 2009*. See Statutory Rule No. 18 of 2009.

The amending Rules firstly alter the procedure for advertising applications for grants of Probate and Administration and secondly make consequential amendments arising from the enactment of the *Relationships Act 2008*.

Online Probate and Administration Advertisements

With effect from 2 March 2009, advertisements of an applicant's intention to apply for a grant of representation may be posted on the Court's website. The website can be located at www.supremecourt.vic.gov.au. To minimise inconvenience to practitioners and others, a dual advertising system will operate for 6 months from the coming into operation of the new Rules. During that period practitioners and Court users can advertise on the Court's website or by newspaper in the traditional way. From 2 September 2009 all advertisements, save and except, reseals of grants of representation must be advertised on the Court's website.

The new measures are intended to replace the existing procedures of advertising in either a Melbourne daily newspaper or, where applicable, in a newspaper published at least weekly and circulating in the district in which the deceased resided.

The objectives of moving to an online advertisement are to :

- provide a single comprehensive point of publication for all advertisements;
- provide universal accessibility to interested persons, including regional and overseas persons; and
- improve the visibility of advertisements for all citizens.

The introduction of online advertisements will not only provide increased certainty of advertisement, but also will streamline the application process and increase Court efficiency.

The fee to publish an advertisement has been set at \$35.75 and is payable by Visa Card, Master Card or Direct Debit for registered users. Searching for an advertisement does not attract a fee.

Guidance notes and a transaction demonstration for practitioners and others in the use of technology for the posting of advertisements will be available on the Court's website. The appropriate use of technology and the drafting of the advertisement remains the responsibility of users.

Enquiries regarding this new Court initiative may be directed to Mrs. Meghann Blakeman, Probate Online Coordinator by email at poas@supremecourt.vic.gov.au, by fax on (03) 9603 9400 or by telephone on (03) 9603 9294

Relationships Act 2008

The *Relationships Act 2008* came into operation on 1 December 2008. It established a Relationship Register for the registration of domestic relationships in Victoria. The Act, among other things, amended the *Administration and Probate Act 1958* and the *Wills Act 1997*. It particularly affects the estates of persons dying intestate on or after 1 December 2008 leaving a "domestic partner".

Applicants applying for grants in intestate estates where the deceased died on or after 1 December 2008 leaving a "domestic partner" must now specify whether the domestic partner was a "registered domestic partner" or an "unregistered domestic partner" within the meaning of section 3(1) of the *Administration and Probate Act 1958*.

In the former case ("registered domestic partner"), an applicant must disclose the facts and circumstances relied upon to establish that the deceased was in a registered relationship within the meaning of the *Relationship Act 2008*. In the latter case ("unregistered domestic partner") an applicant must establish by affidavit whether (having regard in particular to the matters referred to in section 35 (2) of the *Relationships Act 2008* the deceased left a "domestic partner".

In proceedings relating to "unregistered domestic partners" in determining whether a domestic relationship existed, all the circumstances of the relationship are taken into account. Typically, evidence filed in support of an application should, at the least, include dates and periods of the relationship, places where the parties lived, the degree of mutual commitment to a shared life, the degree of financial dependence or interdependence, the arrangements (if any) for financial support between the parties, the ownership, use and acquisition of property and evidence of the reputation and public aspects of the relationship.

Practitioners should note that the provisions relating to "domestic partners" as contained in the *Statute Law Amendment (Relationships) Act 2001* and Section 275(2) of the *Property Law Act 1958* remain in force in respect of the estates of persons dying intestate on or after 8 November 2001 and before 1 December 2008.

MICHAEL J. HALPIN
Registrar of Probates
27 February 2009