



**RULES FOR THE
GOVERNANCE OF
THE MONTHLY AND
PROBATE COURT
OF LIBERIA**

APPROVED BY THE SUPREME COURT OF LIBERIA

- Rule 1.** The Monthly and Probate Courts, except those otherwise provided for by law, shall meet regularly on the first Monday in each month at 10: o'clock a.m. and said courts shall adjourn from day to day until the business shall have been completed. In the counties where the work of the Probate Division of the Court is done by the Circuit Judge, he shall perform the same during the chamber session and at such other times during the term, as his discretion might dictate. On days other than the first Monday in each month, the Court shall meet daily at 8: o'clock a.m., recess and adjournment being in the discretion of the Judge.
- Rule 2.** All prayers motions, applications and other petitions and objections cognizable before this court shall be in writing, with good and sufficient causes therein shown for the granting thereof.
- Rule 3.** Pleadings, proceedings and general conduct of hearing before this court shall be governed by and in accordance with the rules controlling in the non-jury hearings of the circuit courts. Minutes shall be kept of all business, and shall be read for correction and approval at the opening of the succeeding day's sitting.
- Rule 4.** All documents, except wills and deeds, offered for probate shall be notarized by Notary Public and cried at the door of the Court by the Sheriff during regular sitting, and he shall receive a fee for the service rendered in each such case. The clerk shall also receive a fee for recording the documents cried by the Sheriff. Endorsements on these and all documents probated, shall be made in and during a regular sitting of the Court.
- Rule 5.** All instruments, documents and other papers other than wills, necessary to be probated, shall be ordered in open courts and recorded by the clerk in the minutes for the day's sitting; after which it shall be bulletined for at least three (3) days in the local daily

newspapers of general circulation, before being cried by the sheriff. This order shall only be given in the absence of objections interposed to probate of document. In case of objections given orally, time will be allowed as in the case of caveats for written objection to be filed in keeping with Statute. Bulletin of these matters shall be placarded on the door of the Court House for the required three (3) days, to give the public notice of the professor's intention.

Rule 6. Every executor or executrix named in a will, or administrator, administratrix, guardian or trustee appointed by Court, shall within twenty (20) days after their qualification, return a full inventory of the estate under their charge, with bond to cover the same for the Court's approval; and all additional property not included in the first inventory shall immediately upon discovery be reported to Court for a supplemental inventory to be made thereof. In every case the bond covering the estate shall be double the inventoried value thereof.

Rule 7. The executor or executrix, administrator, administratrix, guardian or trustee shall within six months after qualification, deposit with the Court statement showing the total of all debts due to and by the estate or ward, together with all expenses incurred up to that time.

Rule 8. No administrator, guardian or trustee shall dispose of any property, personal or real under their charge, unless by and order from the Court, and such sales not made pursuant of an order of Court and as regulated by statute, shall be declared void by the Court upon the information being received.

Rule 9. The administrator, guardian or trustee shall deposit their bill of sale within sixty (60) days after the order of sale is granted, to be recorded by the Court, coupled with a full report bearing on the said order; the said report shall state whether or not sale was obtainable, and the amount realized.

- Rule 10.** The administrator, guardian or trustee shall deposit the remaining amount, after deducting funeral expenses and Government taxes of their presentation, or in the discretion of the Court with due regard for protection the interest of minors and preserving the estate, from waste and devastation.
- Rule 11.** Within twelve months after qualification for administering an estate, the executor or executrix, administrator or administratrix, having completed all of the business of the estate in keeping with law, shall apply to court and give notice of the closing of the estate; in case the business of the estate has not been completed within twelve months required by statute, a written report shall be filed in court showing the reasons making it impossible for the same to be closed. In all such cases the court, if satisfied with the reasons given, shall grant additional time up to six months. In case the reasons given are not satisfactory, the court may in its discretion relieve the administratrix, after having them to account in full for property of the estate entrusted to their care.
- Rule 12.** In all cases where petitions, motions, applications and/or objections or other documents cognizable before the court, having been filed in the clerk's office, shall be read in open court, and due notice thereof given by the clerk to all parties interested; thereafter a time shall be appointed for hearing of the same.
- Rule 13.** All fees payable to officers of court shall be paid before rendition of service.
- Rule 14.** An executor, administrator, guardian or trustee failing to perform the duties appertaining to this office, may be compelled to do so upon information of such negligence being brought to the Court's attention; and where it is discovered that such failure or negligence has caused

injury, damage or hurt, the Court in its discretion may inflict such punishment as the gravity of the case might require.

Rule 15. A caveat filed in the office of the clerk shall operate as a stay against the probate of any document affecting the property named or referred to therein upon filing of a caveat the person who filed same shall simultaneously cause to be published notice of such filing to be published in a local daily newspaper of general circulation for a period of at least three (3) days. The clerk in every case documents, are presented and are affected by the said caveat. A period of not more than ten days shall be given to the curator to file a written objection to the probate of such document.

Rule 16. Within thirty (30) days, after the death of a testator and document purporting to be his Last Will and Testament shall be presented in Court by written petition duly verified by the professor. The clerk shall read the petition in open court and shall be ordered to break the seal and read the will. Thirty days' notice shall then be given in all localities by publication in local daily newspapers of general circulation wherein lies any property mentioned in the said will; at the expiration of which time the Court shall proceed to prove the genuineness of the will by examination of the witnesses to the testator's signature.

Rule 17. The executor or executrix named in the will shall be qualified in open court and given letters testamentary to administer the estate; unless specifically forbidden by the will a bond shall be required to cover the value of the inventory which must in all cases be filed in court.

Rule 18. An action for discovery or production of any paper purporting to be the Last Will and Testament of a deceased person, which has not been offered for probate, may be instituted by any person in interest thirty or more days after death of the deceased, by filing a complaint alleging therein that he believes the decedent left a Last Will and Testament,

and that the said document is in the possession of any person; or that said person has knowledge of its existence or whereabouts. In such case the person will be ordered before court to give information within his knowledge concerning the said document; such information shall be given in Court and made to form a part of the record of the day's sitting.

Rule 19. Within the thirty days immediately following the reading of the Will and the posting and publication of notices, any and all objections to the proving of the Will shall be filed in the office of the clerk; and a copy thereof served on the petitioner, who may file an answer to be followed by other pleadings. When pleadings have been rested, and the law issues raised therein have been disposed of, all of the records are filed with the Circuit Court for the disputed issues of fact to be tried by a jury.

Rule 20. Where a will has been proved and letters testamentary issued, and afterwards another Will discovered and offered for proving, the proponent offering such a latter Will may move the Court for an order directed to the executor who may be already administering under letter testamentary, and all persons interested to appear before Court and show cause why probate of such latter Will should not be granted.

If probate is granted on the return of the order to show cause, the Court shall require the former executor or administrator to submit final report on the handling of the estate up to that time, after settling all of the accounts of the estate. The estate shall then be turned over to the executor named in the latter Will, in case the former is not continued; and the court shall in every such case act in manner to effect the just and equitable further administration of the estate.

Rule 21. Upon the demise of an interest and thirty (30) days after his death, the Curator shall file information in court bringing said fact to the

attention of the Judge. Whereupon the court shall issue an order empowering the Curator, together with a representative of the deceased where one can be found, who shall be nearest in degree to the intestate, to take a true and correct inventory of the lands, goods and cattle; whether in possession or in action. Said inventory shall be signed by the Curator together with the representative of the deceased supported by a verified affidavit, and duly filed in the office of the clerk ten (10) days after the granting of the order for the inventory. The affidavit shall carry the usual declaration that the Curator and the next-of-kin shall disclose any after-discovered assets of the deceased.

Rule 22. Upon filing of the inventory with the affidavit annexed by the Curator, the court shall instruct the payment of the debts of the estate, observing the following courtesy rules of priority:

1. The value of the stamps required on the inventory according to law which shall be purchased and placed on the inventory by the clerk.
2. Funeral charges and the expenses of taking and filing the inventory.
3. All debts and taxes due government by the deceased, and the percentage due upon the value of the inventory filed by the Curator.
4. The widow's dower/windows courtesy.
5. Creditors:
 - (a) Debts of record
 - (b) Debt upon special contracts
 - (c) Simple contracts

Rule 23. Upon the inventory being taken and filed as aforesaid, the court shall approve same and order the Curator to placard notices for thirty (30) days, calling on creditors to file their claims duly authenticated, and promising to pay same if found to be correct, subject to the same rules of priority provided for in Rule 22.

Rule 24. If ready cash cannot be found to pay the claims enumerated herein and others which shall be found to be legitimate, the Curator may apply for an order of court to convert into cash by public auction, chattels to cover

the value of the liabilities that have come to his hands. The mode of auction shall be as prescribed in rule 28 hereinafter.

- Rule 25. The Curator shall keep an account of the inventory taken of each estate, duly recorded in a book to be provided by government for that purpose and said account shall be submitted to the Auditor or his representative on the fourth Monday of each and every month for audit, and the auditor shall give a certificate as to the condition of the account which the Curator shall present to court on the first Monday of each month; or as the Judge may order. The Collector of Internal Revenues shall act in place of the Auditor in the counties other than Montserrado, the territories and districts. Copy of the Curator's reports shall also be filed with the State's law officers within the counties, territories or districts and said officers shall in turn transmit copy of said reports to the Ministry of Justice. The account book shall be the property of the court and shall be available as all times for inspection by the court, or by those interested in estates, whether as heirs or as creditors.
- Rule 26. The Curator shall keep his office in a place to be furnished by Government, in any of the public buildings within a county, territory or district.
- Rule 27. After all of the debts and claims against the estate are paid, the Curator shall file a declaration to the Court, after satisfying itself that everything has been done as the law requires who shall give a receipt severally to the court, the Curator and the Clerk of Court shall thereupon enter minutes that said estate is duly closed.
- Rule 28. No Curator shall undertake to dispose of, and convey title for, any real estate of a deceased person except upon the exhaustion of the goods and chattels of the estate. Nor shall said realty be sold except upon the following conditions being met:

1. An application filed in court by the Curator a copy of which must have been furnished the heirs stating the chattels property of the deceased is not sufficient to meet the claims of creditors or other debts of the estate.
2. Request in said application for order of court to specific piece or pieces of reality, which shall be free from all encumbrances, for the relief of creditors.
3. The Court being satisfied that such a necessity exists, shall give an order in writing authorizing sale of reality by public auction, and designating the property to be sold.

Rule 29. All claims against an estate shall be first filed with the court who shall determine whether or not they are legitimate, should claimants feel aggrieved as to the Curator's decision they may appeal to the Judge who shall determine finally whether or not the relative claims is legally chargeable against the assets of the estate in the hands of the Curator and shall so order.

Rule 30. Every estate shall be closed within one year of the date the order of court is given to take inventory thereof. But estates in which foreign claims are largely involved may, in the discretion of the court remain open for eighteen months and not longer, when they shall be closed in the manner herein prescribed.

Rules 31. If it should appear to court at any time that a curator is acting negligently or dishonestly, or that the heirs or creditors concerned in the estate are likely to be made, which record shall comprise the charges, the evidence and the answer of the Curator made in a formal

investigation held by the President for his action. Should the President remove the Curator from office, this official shall upon termination of his appointment immediately deliver to his successor all books, papers and property of every nature and kind whatsoever in his possession in connection with the estates under his administration, and in every such case the bond and lien of such Curator shall not be canceled until he shall have complied, to the satisfaction of the court, with all of its requirements. Upon the discharge of the Curator, after full satisfaction of court, the court shall issue a certificate certifying that such office has legally complied with all of the requirements of law appertaining to the duties of his office to full satisfaction of court, and thereby order the release and cancellation of the bond and lien.

- Rule 32. Executors or executrices named in a Will, or Administrators, Administratrixes, guardians or trustees appointed by court, or any person in interest, shall whenever necessary and immediately after qualification, make application by petition for the appointment of appraisers who shall be appointed, and who might not exceed three in number; two of whom shall be nominated by the heirs of persons in interest, or the executors or administrators of the estate, and one by the court who shall have experience in these matters and serve as Chairman. Upon appointment said appraisers submit their report showing the appraised value of the estate or property within three days of their appointment. Compensation for services shall not exceed \$100.00 per diem for each appraiser.