

Decedents' Estates Before January 1, 1981.

D.C. SCR-PD Rule 10

Rule 10. Petition for probate and administration.

(a) Contents.

A petition for probate of a will and for letters testamentary or for letters of administration shall be in typewriting, double spaced, and shall be verified by the petitioner. The petitioner shall set forth:

(1) The residence, citizenship and freedom from legal disability of the proposed executor or administrator;

(2) By what right the petitioner makes application; and, if the application is not for the petitioner's appointment, by what right the proposed executor or administrator may be appointed;

(3) The date of death of the decedent;

(4) The decedent's last domicile;

(5) Whether the decedent died testate or intestate;

(6) The name, address and relationship to the decedent of each heir at law and next of kin and whether any of them is under any legal disability, the name and address of the guardian, conservator, committee or custodian of any such person who is under a legal disability, and, if any such heir at law and next of kin is an infant, the date of birth, and the name of the custodian of any who is under 16 years of age;

(7) The character, location and estimated value of the decedent's real and personal estate (including any real estate situation in the District of Columbia and owned jointly by the decedent with another);

(8) The debts of the decedent;

(9) The estimated amount of the cost of the decedent's funeral and related expenses; and

(10) The estimated amount, if any, of District of Columbia inheritance and estate taxes.

(b) Special undertaking.

No special undertaking shall be granted unless prayed for in the petition.

(c) Notice to legatees.

No order granting probate shall be entered, in the absence of consent or waiver of notice, until proof, as provided herein, has been filed with the Court to the effect that there has been mailed postpaid to each legatee and devisee, at the last known address of each legatee and devisee a notice showing the title of the Court, the name of the testator, the amount or nature of the legacy or devise and the name and address of the petitioner or the petitioner's attorney. The proof of service of said notice shall be by affidavit of the petitioner or the petitioner's attorney containing the substance of said notice or attaching a copy thereof. If any legatee or devisee is known by the affiant to be under any legal disability, the notice shall be directed to said person in care of the guardian, conservator, committee or custodian of said person. If any legatee or devisee is unknown or if the address of said person is unknown, the aforesaid affidavit shall recite that fact and the efforts made to ascertain same and the mailing of said notice to said person shall not be required.

D.C. SCR-PD Rule 11

Rule 11. Notice of petition for probate.

In the absence of consent or waivers of notice, notice of the filing of a petition for probate shall, in accordance with *D.C. Code § 18-501 through 503*, be directed to the heirs at law and next of kin of the decedent in the following manner:

(a) Notice by citation.

(1) When any heir at law and next of kin is a resident of the District of Columbia, the Register of Wills, on request of the petitioner or the petitioner's attorney shall issue a citation directed to such heir at law and next of kin in accordance with *D.C. Code § 18-501(b)*.

(2) When any heir at law and next of kin is a nonresident of the District of Columbia or is a resident of the District of Columbia as to whom citation has been returned "not to be found", notice may be given to such person in accordance with *D.C. Code § 18-502(a)* or in accordance with section (b) of this Rule.

(b) Notice by publication.

When it is alleged in the petition for probate or other affidavit that any heir at law and next of kin is unknown, is a non-resident of the District of Columbia, or is a resident of the District of Columbia as to whom citation has been returned "not to be found", notice may be effected with respect to such person, on written request of petitioner or the petitioner's attorney, by publication in accordance with *D.C. Code § 18-502(b), 503(a)*.

(c) Mailing and proof.

No order granting probate shall be entered unless petitioner or the petitioner's attorney shall have filed an affidavit showing:

(1) That at least 20 days before the expiration of the period stated in the publication affidavit mailed, postpaid, a copy of said notice directed to each person named therein, at such person's last known address; or that if said mailing was less than 20 days before the expiration of the period stated in the publication, the person named therein was notified that any objections to the granting of said order shall be filed within 20 days from the date of said mailing; or that affiant has been unable to ascertain the address of any person named therein after diligent effort, and

(2) That, if unknown heirs at law and next of kin are mentioned in said notice, the affiant has not learned of the existence of any heirs at law and next of kin who were unknown at the time of such publication.

REGISTER OF WILLS COMMENT

D.C. Code §§ 18-501 to 18-514 [Repealed]

D.C. SCR-PD Rule 12

Rule 12. Notice of petition for administration.

Upon the filing of a petition for letters of administration, the Court may direct the issuance of a citation to any heir at law and next of kin, if within the District of Columbia, to appear on a day named and show cause why such letters should not be granted, and if it appears that any heir at law and next of kin cannot be found within the District of Columbia, or is unknown, the Court may direct notice to said person by publication as provided in these Rules, or otherwise.

D.C. SCR-PD Rule 13

Rule 13. Collectors.

Certain persons not to be appointed.

Neither the party filing a complaint to contest the validity of a will nor said party's attorney shall be appointed collector of an estate pending the trial of the proceedings, except:

(1) With the approval of the Court and the written consent of all the defendants named in said complaint; or

(2) Where by reason of peculiar circumstances, it shall be deemed appropriate by the Court.

D.C. SCR-PD Rule 14

Rule 14. Nonresident fiduciaries.

A fiduciary, who is or becomes a nonresident of the District of Columbia, or who is continuously absent therefrom for more than 60 days, shall file with the Register of Wills a power of attorney as required by D.C. Code § 21-110. Failure to file the power of attorney within 10 days of appointment or 10 days from the date of becoming a nonresident or after 60 days' absence shall be cause for removal of the fiduciary from office in accordance with the provisions of SCR-PD 23.

REGISTER OF WILLS COMMENT

Technical revision made to correct error in cross reference.

D.C. SCR-PD Rule 15

Rule 15. Proceedings in contested estate cases.

(a) Commencement of action.

An action to contest the validity of a will in accordance with D.C. Code § 18-513, or to contest a petition for the appointment of an administrator or executor or to remove an administrator or executor who has been appointed, or to institute a plenary proceeding in accordance with D.C. Code § 18-512 or to construe a will prior to approval of the personal representative's final account, may be commenced by any party in interest by filing a verified complaint with the Register of Wills. Except as hereinafter provided the procedure in such actions shall be governed by the Superior Court Rules of Civil Procedure.

(b) Summons.

The Register of Wills shall issue a summons upon the request of the plaintiff in the action. The form of the summons shall be as prescribed by the Register of Wills. In an action brought in accordance with this Rule, the summons shall be directed to each heir at law and next of kin of the deceased, to the proponents of the will and to all legatees and devisees named in wills of the decedent filed in the Office of the Register of Wills.

(c) Substituted personal service; publication.

If any party summoned is a nonresident of the District of Columbia, or is a resident of the District of Columbia as to whom the summons has been returned "not to be found", or is an unknown heir at law and next of kin of the decedent, service may be made upon said party by publication once a week for 3 successive weeks in accordance with D.C. Code §§ 13-339 and 340. Substituted personal service may be made on a nonresident party out of the District of Columbia in accordance with *D.C. Code § 13-337*.

(d) Certificate of completion of process; assignment; pretrial.

After all parties have been served with process in accordance with this Rule and a certificate to that effect has been filed in the Office of the Register of Wills on a form prescribed by the Register of Wills, the case may be specially assigned for trial by the Chief Judge or his designee. If not so specially assigned the case shall be placed on the civil calendar for trial. Superior Court Civil Rule 16 relating to pretrial shall be applicable to actions covered by this Rule.

REGISTER OF WILLS COMMENT

D.C. Code §§ 18-501 to 18-514 [Repealed]

D.C. SCR-PD Rule 16

Rule 16. Registration and appraisal of securities.

(a) Registration.

Unless the will of a decedent provides otherwise, the personal representative of a decedent's estate shall, as soon as practicable after qualification, register all securities owned by the decedent (except, in the discretion of the personal representative, securities registered in the name of the decedent) in the name of the personal representative, as such, and shall bring all securities under the control of the personal representative. If the personal representative or the custodial agent of the personal representative is a bank chartered under the laws of the United States or the District of Columbia, the securities may be registered in the name of its nominee or kept in bearer form, but such registration shall not relieve the personal representative of responsibility for the safekeeping of the securities. This Rule shall be applicable to the administrations of all decedents' estates commenced in this Court on or after August 1, 1973, except those proceedings instituted in accordance with D.C. Code §[§] 20-304.

(b) Exception.

The Court may, upon good cause shown, and upon such terms and conditions as it shall direct, permit a personal representative to hold securities otherwise than as required by section (a) of this Rule.

(c) Appraisal.

Within 2 months after qualification, or such longer time as the Court allows, the personal representative of a decedent's estate shall furnish to the Court-appointed appraisers a written listing of all securities owned by the decedent, together with a statement that the personal representative has complied with section (a) of this Rule or has obtained or applied for an order in accordance with section (b) of this Rule. The appraisers shall thereafter value said securities as of the date of the decedent's death in accordance with principles set forth in the Federal Estate Tax Regulations governing the valuation of securities for federal estate tax purposes.

REGISTER OF WILLS COMMENT

Technical revision made to correct error in cross reference.

D.C. SCR-PD Rule 17

Rule 17. Sale of personal property.

Sales of personal property under order of the Probate Division shall be upon such terms and conditions as may be prescribed in the order of sale.

D.C. SCR-PD Rule 18

Rule 18. Proceedings for the sale of real property.

(a) Petition.

A proceeding for the sale of real property of a decedent for the payment of charges or legacies, as set forth in *D.C. Code § 20-1106*, shall be commenced by the filing of a petition which shall set forth: The real property sought to be sold; the estimated value of the personal property; the amount of the charges and legacies, if any; the insufficiency of the personal property to satisfy said charges and legacies; and, where applicable, the name and address of each heir at law and next of kin, legatee and devisee.

(b) Process.

Except as to parties who have filed consents therein, process shall issue in proceedings under this Rule in accordance with D.C. Code §[§] 13-337 through 13-340.

(c) Reference to Auditor-Master.

After service of process has been completed and the time for answer has expired, the proceedings shall be referred to the Auditor-Master for a report in accordance with *D.C. Code § 20-1106*. The procedure prescribed by Superior Court Civil Rule 53(g)(2) for the filing of objections to the report of the Auditor-Master may be waived in writing if such waiver is signed by all persons who have received notice of the filing of the report.

(d) Sale without reference to Auditor-Master.

When all parties described in section (a) of this Rule have filed with the Court their consents to the sale, the Court may order the sale of all or part of said real property without reference to the Auditor-Master if it is satisfied that the personal property of the decedent is insufficient to meet all charges or legacies and that all or part of the decedent's real property must be sold to pay said charges or legacies. If a person having an interest in said real property is not sui juris, the Court may accept on behalf of said person the consent of a fiduciary duly appointed for said person's estate, or may appoint a guardian ad litem who shall have the right to file a consent on behalf of said person.

(e) Manner of sale.

A sale authorized pursuant to this Rule shall be made in accordance with SCR-PD 203.

REGISTER OF WILLS COMMENT

Technical revision made to correct error in cross reference.

D.C. Code § 20-1106 relates to distribution to a minor.

D.C. SCR-PD Rule 19

Rule 19. Accounts of administrators, executors and collectors.

(a) Notice of filing.

No account shall be approved by the Court, in the absence of a consent or waiver of notice, until the personal representative or the personal representative's attorney shall have furnished notice to each person whose interest may be affected by the attorneys' fees and personal representatives' commissions claimed in said account. Such notice shall state the amounts of such fees and commissions so claimed and the date said account will be presented for approval to the Court. Said notice shall be given after the filing of said account. It shall be served upon each such person or shall be sent by certified mail to each such person's last known address. Said notice shall be served upon residents of the District of Columbia at least 5 days prior to the date said account is to be presented to the Court for approval and upon nonresidents at least 20 days prior to such date; 3 additional days shall be required in the event of mailing said notice.

(b) Proof of notice.

Proof of such service shall be by an affidavit which shall set forth the name and address of each person to whom notice was given, and, if mailed, the date of said mailing. Said affidavit shall be supported by a specimen copy of the notice prescribed by section (a) of this Rule and, in the case of mailing, the certified letter receipt.

(c) Tax certificate.

Except in cases in which a return is not required to be filed by the personal representative, no final account shall be approved by the Court until there shall have been filed with the Register of Wills a certificate of the District of Columbia Department of Finance and Revenue certifying that the District of Columbia inheritance and estate tax liability of the estate has been satisfied or fully provided for.

(d) Account; approval without formal audit.

An account of a personal representative may be approved without formal audit if all persons whose interests will be diminished by the disbursements shown (distributees, legatees or creditors) are under no legal disability, acknowledge receipt of a copy of the account, and consent to and approve such account in all respects, as stated, and further consent to and approve the attorneys' fees and commissions of the personal representative as claimed in such account. The form of such consent may be as follows:

CONSENT

I, the undersigned distributee, legatee or creditor affected by the disbursements shown in the personal representative's account filed herein, hereby,

- (1) Acknowledge receipt of a copy of said account.
- (2) Consent to and approve said account in all respects as stated.
- (3) Consent to and approve the personal representative's commission claimed in said account.
- (4) Consent to and approve the attorneys' fees claimed in said account.
- (5) Request approval at the earliest possible date of said account.

IN TESTIMONY WHEREOF, I have hereunto signed my name and affixed my seal this day of, 20....

WITNESS:

..... (SEAL)

.....

In addition, the attorney for the estate must submit a certificate to the Court showing that the funeral bill has been paid, and that all approved claims and all known debts of decedent have been paid. There must also be filed the usual certificate of payment of taxes from the District of Columbia Department of Finance and Revenue and vouchers evidencing payment of all disbursements claimed in the account.

Upon compliance with the foregoing requirements, the Register of Wills may, in the exercise of his discretion, submit the account to the Court for approval without formal audit. After approval by the Court, receipts acknowledging final distribution shall be filed promptly.

(e) Ancillary accounts.

The provisions of section (d) of this Rule shall also apply to approval of accounts in ancillary proceedings, without formal audit, except that the consent therein required shall be executed by the domiciliary personal representative only, provided that the domiciliary personal representative is not one and the same as the ancillary personal representative. In absence of such consent, or if the 2 personal representatives are one and the same, notice of presentation of the ancillary personal representative's account and commission and attorney's fees shall be given in accordance with section (b) of this Rule.

(f) Fees and commissions.

Prior to the Court approval of a 1st or subsequent account, wherein a total attorney's fee or commission of the personal representative exceeds the sum of \$ 7,500 in the 1st account or combined accounts, the party or parties whose fee or commission exceeds the sum of \$ 7,500 shall file a complete statement of services rendered to the estate. In cases where fees or commissions of less than \$ 7,500 are requested, a statement of services may be required in the discretion of the Court.

(g) Reopening.

If an account is approved by the Court without notice to interested parties required by section (a) of this Rule, such account may be reopened upon objections thereto filed by any interested party within 3 months after it is so approved.

D.C. SCR-PD Rule 20

Rule 20. Exhibition of assets.

(a) Verification of assets. If financial accounts are reported in an account, a separate Probate Form 27 must be filed with the account including complete account numbers. At the time of audit of an account the fiduciary shall:

(1) Exhibit all checking account bank statements and cancelled checks or vouchers evidencing cash transactions during the accounting period.

(2) Exhibit all passbooks, ledger sheets, statements or similar documents issued by a bank, trust company, savings and loan association, brokerage firm, or similar institution, reflecting the assets of the estate on deposit or on account therein, and evidencing the transactions in such assets during the accounting period.

(3) File written verification by the depository of cash balances on deposit therein and of all other assets carried in the account as of closing date of the accounting period where otherwise not verified in accordance with subparagraphs 1 and 2 above.

(4) Exhibit certificates or other statement of account of a custodian other than the personal representative evidencing ownership of all securities held for future accounting. In those fiduciary cases in which a bank is acting as fiduciary, in lieu of exhibiting certificates, the bank may submit an affidavit executed by an officer of the bank, other than the officer signing the account, verifying the correctness of the securities and cash accounts held for future accounting and the bank's custody thereof.

(b) Report. When an interim account indicates that the fiduciary holds any undistributed assets, there shall be appended thereto a report, stating with detailed particularity each such asset and its inventoried value.

D.C. SCR-PD Rule 21

Rule 21. Assignments.

When a party who claims to have a right to share as an heir or legatee of a deceased person assigns all or part of such right, the assignee shall promptly file the assignment in the administration proceeding. Any further proceedings to protect or enforce the assignment, or any claim based thereon, shall be prosecuted or presented in the name of the assignee and not in the name of the assignor. Said assignment shall be sworn to or acknowledged before an official authorized to administer oaths. Unless approved by order of this Court, counsel for the assignee shall not appear for or represent the assignor.

D.C. SCR-PD Rule 22

Rule 22. Compensation to attorneys and fiduciaries.

Claims for attorneys' fees and fiduciary commissions in proceedings governed by these Rules shall be made and allowed in accordance with D.C. Code § 20-1705 and § 21-143 and in accordance with such of the provisions of SCR-PD 19(f) as may be applicable.

D.C. SCR-PD Rule 23

Rule 23. Delinquent fiduciaries.

Whenever it comes to the attention of the Register of Wills that there is an apparent irregularity or default in the administration of a proceeding under these Rules, including but not limited to the failure to file, within a prescribed time, a proper inventory or account, or that there is an insufficiency in the amount or security of an undertaking, the Register of Wills shall immediately notify the fiduciary that, unless the irregularity or default is corrected forthwith, the fiduciary shall be subject to removal. If the irregularity is not remedied, the Register of Wills shall report said irregularity to the Court. Following such notification the Court shall set a summary hearing, direct notice of the hearing to the fiduciary and, at the hearing, remove the fiduciary and appoint a successor, unless, for good cause shown, failure to correct the irregularity or default is deemed excusable.

D.C. SCR-PD Rule 24

Rule 24. Fees.

(a) Administration of decedents' estates (testate and intestate).

(1) The fees to be collected by the Register of Wills in the administration of decedents' estates shall be assessed on the basis of the value of the probate estate at the following rates:

(A) General undertaking administrations (including corporate fiduciaries):

VALUE OF PROBATE ESTATE	FEE
Less than \$ 2,500	No fee
\$ 2,500 but less than \$ 10,000	\$ 12.50 + 0.5/% of excess over \$ 2,500
\$ 10,000 but less than \$ 100,000	\$ 50 + 0.3/% of excess over \$ 10,000
\$ 100,000 but less than \$ 500,000	\$ 320 + 0.2/% of excess over \$ 100,000
\$ 500,000 but less than \$ 1,000,000	\$ 1,120 + 0.1/% of excess over \$ 500,000
\$ 1,000,000 and over	\$ 1,620 + 0.5/% of excess over \$ 1,000,000

(B) Special undertaking administrations:

VALUE OF PROBATE ESTATE	FEE
Less than \$ 2,500	No fee
\$ 2,500 but less than \$ 10,000	\$ 15
\$ 10,000 but less than \$ 50,000	\$ 30
\$ 50,000 and over	\$ 60

(C) Collectorships (including corporate fiduciaries):

(i) The fees to be collected by the Register of Wills in collectorship proceedings shall be assessed at the rates prescribed for general undertaking administrations (see section (a)(1)(A) of this Rule).

(ii) The fees to be collected by the Register of Wills in general undertaking administrations and collectorships shall be assessed and paid prior to the approval of the 1st account. Subsequent fees, if any, determined under section (a)(C)(iii) of this Rule shall be assessed and paid prior to the approval of each subsequent annual account of the personal representative.

The fees to be collected by the Register of Wills in special undertaking administrations shall be assessed and paid within 10 days after the issuance to the personal representative of letters testamentary or of administration except for good cause shown.

(iii) For the purposes of determining fees under section (a) (1) of this Rule, the value of the probate estate shall include (1) the initial gross principal value of the assets of the probate estate as determined by the Register of Wills, (2) the gross value of any increase in the principal value of any probate asset realized upon disposition (other than upon distribution to beneficiaries of the estate) by the personal representative, and (3) the gross value of any income reported by the personal representative in periodic accountings to the Court. If any account of a personal representative reports a value for the probate estate which is greater than the value of the probate estate previously determined by the Register of Wills or reported by the personal representative, the Register of Wills shall assess such additional fees, if any, as are required under this section.

(b) Administration of the property of minors.

(1) The fees to be collected by the Register of Wills in the administration of the property of minors shall be assessed on the basis of the value of the guardianship estate at the following rates:

VALUE OF PROBATE ESTATE	FEE
Less than \$ 500	No fee
\$ 500 but less than \$ 2,500	\$ 5

\$ 2,500 but less than \$ 10,000	\$ 10
\$ 10,000 but less than \$ 25,000	\$ 17
\$ 25,000 but less than \$ 50,000	\$ 25
\$ 50,000 but less than \$ 100,000	\$ 35
\$ 100,000 and over	\$ 50

(2) The fees to be collected by the Register of Wills in the administration of the property of minors are annual charges. The initial fees shall be assessed and paid prior to the approval of the 1st account. Subsequent fees shall be assessed and paid prior to the approval of each subsequent annual account of the guardian.

(3) For the purposes of determining fees under section (b)(1) of this Rule, the value of the guardianship estate shall include (1) the initial gross principal value of the assets of the guardianship estate as determined by the Register of Wills, (2) the gross value of any increase in the principal value of any guardianship asset realized upon disposition (other than upon final distribution to a ward who has attained the age of 21 years) by the guardian, and (3) the gross value of any income reported by the guardian in periodic accountings to the Court.

(c) Certified copies of wills and letters.

Payment of the fees assessed under section (a) or (b) of this Rule shall entitle the fiduciary to be furnished by the Register of Wills with, where applicable, 2 certified copies of the will (and any codicils thereto) admitted to probate and 6 copies of letters testamentary or of administration, collectorship or guardianship, all without further charge.

(d) Miscellaneous charges:

(1) Complaints under Rule 10	\$ 25	
(2) Administrations under Small Estates Act:		(A) Estates under \$ 500 (B) Estates valued at \$ 500 to \$ 2,500
	No fee	
	\$ 15	
(3) Additional letters testamentary or of		administration, collectorship or guardianship and nonresident certificates
	\$ 1 per copy	
(4) Copies of documents	\$.50 per page plus \$.50 for certification	
(5) To docket claim	\$.50 each	
(6) To search records	\$ 1	
(7) Rule to show cause, objections to accounts,		notice of appeal, miscellaneous motions, etc.
	\$ 5	
(8) To attend safe deposit box opening	\$ 10	

(e) Assessment and collection.

All fees assessed under this Rule shall be collected by and paid to the Register of Wills.

(f) Review of fees.

Following the close of each fiscal year, the Court shall review the fees collected by the Register of Wills during such year and shall make such changes, alterations or additions to the foregoing fee schedules as it considers appropriate in the circumstances.

(g) Effective date of rule.

The provisions of this Rule shall be made applicable to all cases filed on or after August 1, 1973, and to all cases pending in the Office of the Register of Wills on August 1, 1973. Fiduciaries in pending cases shall be allowed credit for fees paid in accordance with earlier fee schedules.

D.C. SCR-PD Rule 25

Rule 25. Definitions.

Unless otherwise specifically stated in these Rules or unless the context otherwise requires:

- (a) The term "Register of Wills" shall be taken to mean and include the Register of Wills or any deputy designated by him.
- (b) Any word shall be read in the singular or plural and as masculine, feminine or neuter gender as may be applicable or permissible in the particular context.
- (c) The word "person" shall be taken to mean and include an individual, partnership, association, company or corporation.
- (d) The term "personal representative" shall be taken to mean and include "executor", "administrator" or "collector".
- (e) The present tense shall include the future as well as the present.

D.C. SCR-PD Rule 26

Rule 26. Bias or prejudice of a judge.

COMMENT:

Identical to SCR Civ 63-I. (Issued, Mar. 15, 1976.)

REGISTER OF WILLS COMMENT

As of May 1, 2009, the current text of SCR Civ 63-I is as follows:

Rule 63-I. Bias or prejudice of a judge.

(a) Whenever a party to any proceeding makes and files a sufficient affidavit that the judge before whom the matter is to be heard has a personal bias or prejudice either against the party or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned, in accordance with Rule 40-I(b), to hear such proceeding.

(b) The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists and shall be accompanied by a certificate of counsel of record stating that it is made in good faith. The affidavit must be filed at least 24 hours prior to the time set for hearing of such matter unless good cause is shown for the failure to file by such time.

COMMENT

Rule 63 is identical to *Federal Rules of Civil Procedure 63*. Rule 63-I is substantially identical to *28 U.S.C. § 144*.