

# Supreme Court Rules 1937—Form 2.29

(see o 72 r 51B)

## Form of order, accounts and inquiries

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P                                      of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

### The Court orders that:

- 1        The following accounts be taken and inquiries made:
  - (a)    an account of the property of (name of deceased) deceased (the testator) not specifically [devised or] bequeathed and received by the defendant the executor of \*[his/her] will or by any other person or persons by the order or for the use of the defendant or which without the wilful default of the defendant might have come to \*[his/her] hands;
  - (b)    an account of the debts of the testator;
  - (c)    an account of the funeral and testamentary expenses of the testator;
  - (d)    an account of the legacies and annuities (if any) given by the testator's will;
  - (e)    an inquiry as to what parts (if any) of the testator's personal estate are outstanding or undisposed of [and whether any part of such personal property so outstanding or so undisposed of is subject to any and what encumbrance].

- 2 The testator's personal estate not specifically bequeathed be applied in payment of \*[his/her] debts and funeral expenses in due course of administration, and then in payment of the legacies and annuities (if any) given by \*[his/her] will.
- 3 The following further inquiries be made and accounts taken:
- (a) an inquiry as to what real estate the testator was seised of or entitled to at the time of \*[his/her] death;
  - (b) an inquiry as to what encumbrances(if any) affect [or did affect] the testator's real estate and as to what are the priorities of the encumbrances;
  - (c) an account of what was due on (*the date of death*) and what is presently due to encumbrancers;
  - (d) an inquiry as to what real estate was sold by the defendant and an account as to the proceeds of the sale received by the defendant;
  - (e) an account of the rents and profits of the testator's real estate received by the defendant (*insert details*).
- 4 [The testator's real estate be sold (*if appropriate and with any directions, including a requirement for the approval of the Court as may be appropriate*)].
- 5 Further consideration of this cause be adjourned and any of the parties be at liberty to apply on 2 clear days notice as they may be advised.
- 6 [The plaintiff's costs of and incidental to this motion be allowed and taxed as between solicitor and client and paid out of the estate of the testator (*or as the case may be*)].

*\*(Delete whichever is inapplicable)*

## Endnote

- 1 This form was originally in the *Supreme Court Rules 1937*. Under the *Court Procedures Act 2004* A2004-59, pt 8, the form became a form approved under that Act.

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