

**AFFIDAVIT IN SUPPORT OF SUMMONS BY A CHILD OF THE DECEASED (OR, IF
A MINOR, HIS REPRESENTATIVE) UNDER SECTION 35 (3) OF THE ACT**

(Heading as in Form 1)

I, CD, of *(as in Form 2)* (or EF of *(as in Form 2)* acting for and on behalf of GH a minor)
(hereinafter called “the applicant”) make oath and say as follows: -

1.)

2.) *(As in Form 3 paragraphs 1 to 3.)*

3.)

4. The deceased died intestate and letters of administration were granted to
(name and address) on *(date)*

*5. The deceased left surviving him one spouse only *(name)* (herein called “the surviving
spouse”) and the following child (children) only *(names)*:

.....

.....

.....

The deceased having married more than once under a system of law permitting polygamy
left surviving him several spouses one of which includes the applicant’s mother (herein

called “the surviving spouse”) and the following child (children) only (*names*):

.....

.....

.....

6. The power of appointment conferred by section 35 (2) of the Law of Succession Act upon the surviving spouse has not been exercised (*or* has been exercised by the appointment of) (*state manner and in whose favour*):

I consider that the action of the surviving spouse in not making an appointment constituted an improper and unreasonable withholding (*or* in so exercising the power of appointment constituted an improper and unreasonable exercise) of the statutory power in that behalf and I seek (on behalf of the minor applicant) an order to the following effect, namely

(*set out*):

.....

.....

.....

8. The property of the deceased at date of death was (*set out in full stating the nature and amount thereof*):

9. The present capital assets of the surviving spouse and of the applicant respectively are (*set out in full*):

10. In addition to the said capital assets the surviving spouse and I (*or* the minor applicant) respectively received the following items of capital which are no longer in existence or available (*set out in full*):

.....

11. I anticipate that the surviving spouse and I (*or the minor applicant*) respectively may in the future receive the following capital assets (*set out in full with a statement of the source and the anticipated date of receipt and of the expected gross and net income there from*):

.....
.....

12. The present and anticipated future annual incomes of the surviving spouse and of myself (*or the minor applicant*) respectively are (*state*):

consisting of (*state*):

13. The present and anticipated future needs of the surviving spouse and of myself (*or the minor applicant*) respectively are (*set out in full*):

14. The deceased made no advancement or other gift to me (*or the minor applicant*) in his lifetime or by will (*or the only gifts made to me (or the minor applicant) by the deceased by way of advancement during his lifetime or by will are as follows (state)*):

.....
.....

15. My (*or the minor applicant's*) conduct in relation to the surviving spouse and to the deceased respectively consisted principally of (*set out in general terms so far as relevant*):

.....
.....
.....

16. The situation and circumstances of each other person who has a vested or contingent interest in the net intestate estate of the deceased or as a beneficiary under any will of his so far as known to me are (*state*):

17. The surviving spouse's reasons for so withholding (*or* exercising) the said power of appointment are not known to me (*or* the minor applicant) (*or* so far as known to me (*or* the minor applicant) (*state*)):

18. The facts herein deposed (*continue as in Form 2*).

Sworn, etc. (*as in Form 2*).

* Delete either para.5 or para.5A as appropriate.