

Common Form 72 – ORDER FOR PROVISION OUT OF ESTATE

Judicial Officer(s): The Honourable Justice
His/Her Honour Judge
[Master of the Supreme Court]
Master

Date of application:[DD/MM/YYYY]

Application made by:[Party] [Name]

Date(s) of hearing [if any][DD/MM/YYYY]

Date of order:[DD/MM/YYYY]

Appearances:Solicitor/Counsel for the Plaintiff(s)
.....Solicitor/Counsel for the Defendant(s)
.....Solicitor/Counsel for [Other Parties]

Recitals [if any]:

[By consent] **THE COURT ORDERS that:**

1. The following provision be made out of the estate of [Full Name] late of [Address as set out in the grant of probate] [Occupation] deceased who died on [DD/MM/YYYY] for the maintenance, education or advancement in life of the Plaintiff (s) [(If applicable) in addition to the benefits conferred upon such person (s) by the will of the deceased] namely:
 - (a) that the Plaintiff [Full Name] be paid a legacy of \$[Amount] inclusive of interest to the date of this order; and
 - (b) that the Defendant [Executor] stand possessed of the land and premises situated at [Full Address] together with the furniture and effects contained in the premises upon trust for the Plaintiff [Full Name] absolutely, all rates taxes and other outgoings in respect of the land and premises being apportioned and adjusted between the Defendant and the Plaintiff [Name] as at the date of this order.

[Or as the case may require].
2. The burden of the legacy referred to in paragraph 1 (a) of this order be borne by and paid out of the residuary estate of the deceased provided that if the net residuary estate be insufficient for the payment of the legacy and the costs provided for in this order then the extent of the insufficiency shall be a charge upon the assets the subject of the beneficial interest of [Full Name] and [Full Name] in the estate under the will of the deceased and the burden of such charge shall be borne by such persons in equal shares.
3. Save as aforesaid the Defendant [Executor] shall stand possessed of the estate of the deceased upon and subject to the trusts declared in the will so far as such trusts shall be capable of taking effect.

4. The costs of the Defendant [*Executor*] of this action be taxed or agreed as between solicitor and client and paid out of the residuary estate upon the footing of an indemnity.
5. The costs of all other parties to this action be taxed or agreed as between solicitor and client and paid out of the residuary estate.
6. A certified copy of this order be made on the probate of the will of the deceased and, for that purpose, the Defendant [*Executor*] produce the probate to the Registrar of Probates.
7. The parties may apply for further orders and directions.

[Other text, if applicable]

[*Reproduction of Court Seal*] This order is authenticated by.....
for Registrar

Computer File Reference.....