

FORM P32
(Rule 25-11(1))
CITATION

The Guide does not cover contentious matters, so the procedure for Citations is not explained in depth. However, to assist the users, we are providing formatted forms with a very short explanation as to their use and completion.

General Notes

If there is a Will (or a testamentary document), a *Citation* allows a person interested in an estate to demand that an executor named in a Will apply for a grant of probate. An executor must provide a response to the *Citation* (see *Answer to Citation*). The person who serves a *citation* under Rule 25-11(1) is called a “citor”.

Citations (and answers to them) are intended to be drawn and served between the appropriate parties without being filed in court (although they may be filed) and without any proceeding being commenced in court. The citation procedure forms an evidentiary basis for subsequent applications, but is not a court process itself.

Preparation

The *Citation* may be completed and filed either by the citor or by the citor’s lawyer.

- ① No court number is assigned by the Supreme Court to this document as this Citation does not commence a court proceeding.
- ② Insert the name of the executor (as shown in the Will) and his and her address.
- ③ Insert the full legal name of the Deceased and the date of death.
- ④ Insert the description of the Will, and if known, its location, for example:

“Will of {NAME OF WILL-MAKER} dated {date} and located at the residence of the Deceased at {last known residential address of the Deceased}.”

Note: The reference to “will” in this Citation includes all documents that are included within the definition of “Will” in WESA (see **Wills and Will-Makers – Overview**)

- ⑤ Insert the reason why the citor believes that the Will exists, for example:

“The Deceased advised me on several occasions that he had made a Will and was keeping the original in his desk at his residence.”
- ⑥ Insert the full address for service. If available, also insert a fax number and/or an e-mail address as additional addresses for service.

Processing

The Citation is not filed in court but must be served on the person cited. When it is served, prepare either:

- **Form 15** (Rule 4-6(1)) – *Affidavit of Personal Service*; or
- **Form 16** (Rule 4-6(1)) – *Affidavit of Ordinary Service*.

There is no printed precedent for the Affidavits. However, the appropriate template in electronic form is included on the accompanying CD. If there is an *Affidavit of Service*, it must be filed separately – not as an exhibit to this affidavit.

①

FORM P32 (RULE 25-11(1))

In the Matter of the Estate of
{LEGAL NAME OF THE DECEASED}, deceased

CITATION

To: ②**{NAME OF EXECUTOR BEING CITED}**
 ②**{address}**

This citation is issued by **{NAME OF CITOR}** (the “citor”) regarding the estate of: ③**{LEGAL NAME OF DECEASED}**, (the “deceased”), who died on ③**{dd/mmm/yyyy}**.

This citation is issued in relation to the following document that is/is alleged to be a will of the deceased:

④**{describe document and its location, if known}**

I believe the document exists because: ⑤**{set out basis for citor’s belief}**

You are required to obtain a grant of probate in relation to the above-noted will and comply with Rule 25-11(4) in the manner set out below.

The citor’s address for service is: ⑥

- Street address for service: ⑥**{Street and city address for service}**
- Fax number address for service (if any): ⑥**{Fax number address for service}**
- E-mail address for service (if any): ⑥**{E-mail address for service}**
- Telephone number: ⑥**{Telephone number}**

Date: **{dd/mmm/yyyy}**.

 Signature of

- citor
- lawyer for citor

{type or print name}.

TAKE NOTICE THAT you must comply with Rule 25-11(4) of the Supreme Court Civil Rules.

To comply with Rule 25-11(4), you must do the following within 14 days after being served with this citation:

- (a) if you have been issued a grant of probate, serve on the citor, by ordinary service, a copy of the grant;
- (b) if paragraph (a) does not apply but you have filed a submission for estate grant, serve a copy of the filed application materials on the citor;
- (c) if paragraphs (a) and (b) do not apply but you have delivered a notice under Rule 25-2(1), serve a copy of the notice documents on the citor;
- (d) if none of paragraphs (a), (b) and (c) apply, serve on the citor an answer in Form P33.

AND TAKE NOTICE THAT, if you do not comply with Rule 25-11(4), one or more of the following may occur:

- (a) you may be deemed to have renounced executorship under Rule 25-11(5);
- (b) the citor or another person may apply for an estate grant in relation to the estate; (c) an order under Rule 25-11(6) may be obtained.