

#L-1055

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01/07/87

Memorandum 87-5

Subject: Study L-1055 - Probate Code (General Provisions Relating to Notice)

Attached to this memorandum is a staff draft of the *Recommendation Relating to General Notice Provisions*. The statute and comments have been revised to implement decisions made by the Commission at the December 1986 meeting. The Commission has not yet seen the explanatory text and the comments to repealed sections. The statute, as revised, was approved for inclusion in the 1987 probate bill, subject to later review by the Commission.

Additional conforming revisions in the Probate Code will be included in the bill and subject to review when the bill is available. Typically, this type of amendment involves substituting a reference to the new Section 1220 (manner of mailing notice of hearing) for a reference to Section 1200.5, which will be repealed.

Respectfully submitted,

Stan G. Ulrich
Staff Counsel

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STATE OF CALIFORNIA
California Law Revision Commission

Staff Draft

RECOMMENDATION
relating to
THE PROBATE CODE

General Notice Provisions

December 1986

CALIFORNIA LAW REVISION COMMISSION
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

December 4, 1986

To: The Honorable George Deukmejian
Governor of California and
The Legislature of California

The California Law Revision Commission is now devoting its time and resources almost exclusively to the study of probate law and procedure. The ultimate goal is to submit a new Estate and Trust Code to the Legislature. The new code will replace the existing Probate Code.

Pending preparation of the entire new code, however, some revisions will be proposed in the existing Probate Code. This recommendation sets forth the Commission's proposed revisions relating to general notice and procedural provisions, which would affect existing Probate Code Sections 1200-1242.

The explanatory text of this recommendation indicates the background of this proposal and indicates the principal revisions it would make in existing law.

A comment follows each section of the proposed legislation. The comment gives the source of the section and indicates the nature of the changes the section would make in existing law.

Respectfully submitted,

Arthur K. Marshall
Chairperson

Staff Draft

RECOMMENDATION

relating to

THE PROBATE CODE

GENERAL NOTICE PROVISIONS

Introduction

This recommendation deals with the notice required at stages of estate administration following the opening of probate.¹ The goal of the proposed law is to provide a consistent set of rules relating to notice, to the extent practicable, and to consolidate these general notice provisions in one place in the Probate Code.²

The proposed law thus includes miscellaneous provisions of a general nature, specific rules governing the different manners of notice, and provisions governing citations, requests for special notice, and the manner of making proof of notice.

The general rules concerning the manner of giving notice by personal delivery, by mail, or by posting are set out in one part of the code and then specifically incorporated as needed by each relevant section.³ The Probate Code currently uses this approach in many instances, but the general notice provisions also purport to list the sections where notice is to be given by posting or by mailing.⁴ In

1. The notice required to be given upon commencement of a proceeding for the probate of a will or administration of an estate will be the subject of a separate recommendation.

2. The proposed law does not attempt to revise the provisions relating to publication of notice.

3. As a general rule, the general notice provisions are not applicable to guardianships and conservatorships or to trusts. See Prob. Code §§ 1200(c)-(d), 1200.5(d)-(e).

4. See Prob. Code §§ 1200 (posting), 1200.5 (mailing). The scheme under existing law is confused because of an incomplete revision occurring in 1980. See 1980 Cal. Stat. ch. 955, §§ 29, 31. The provisions relating to notice by mail were split out of Section 1200 into a new Section 1200.5. However, not all references to the mailed

order to avoid burdening the general notice provisions with references to a multitude of other sections, the proposed law relies on incorporation by reference. As under existing law,⁵ the proposed law also provides that if the manner of notice is not specified, notice is to be given by mail.

Manner of Mailing Notice of Hearing in Estate Proceedings

Where notice of a hearing in an estate proceeding is to be given by mail, the proposed law requires notice to be sent at least 15 days before the date set for the hearing. This increases the generally applicable period of notice from 10 to 15 days.⁶ As under existing law,⁷ notice is given to the personal representative, to any person who has given notice of appearance in the estate proceeding, and to any person who has requested special notice.

Mailing in General

The proposed law contains a new section that provides for mailing by first class mail⁸ within the United States and by airmail outside the country.⁹ Mailing is complete when the notice or other paper is deposited in the mail; the applicable period of notice is not extended where a notice or other paper is mailed.¹⁰ Where a notice or other

notice provisions formerly appearing in Section 1200 were revised to refer to Section 1200.5. For example, the provisions relating to requests for special notice still refer to Section 1200 whereas they should refer to Section 1200.5. See Prob. Code § 1202. The proposed law corrects these defects in existing law.

5. Prob. Code § 1200.5(a)(20).

6. See Prob. Code § 1200.5(b).

7. Prob. Code § 1200.5(b).

8. Under the proposed law, first class mail includes certified, registered, and express mail. Cf. Prob. Code § 5 (mailing by certified mail complies with requirement of registered mail).

9. This generalizes a provision in the guardianship and conservatorship law. See Prob. Code § 1215.

10. The proposed law makes clear that the period of notice is not extended when notice is given by mail, as it would be under Code of

paper is required or permitted to be mailed, it may be delivered personally under the proposed law.¹¹ The proposed law also provides as a back-up rule that a notice or other paper may be mailed where a statute does not provide a specific means of service. This provision is consistent with the back-up rule applicable to notice of hearing.¹²

Manner of Posting Notice of Hearing

As in the case of mailed notice, where notice of a hearing is required to be posted, the proposed law increases the notice period from 10 to 15 days.¹³ In other respects, the proposed law continues the substance of existing law relating to posting.

Citations

The proposed law continues the general law relating to citations. However, the proposed law does not continue the existing rule that a citation is to be used where personal notice is required and no mode of notice is prescribed by the Probate Code.¹⁴ Under the proposed law, where notice is required to be given by citation, the relevant section will so provide. If a section is silent on the manner of notice of a hearing, notice is given by mail.

Civil Procedure Section 1013. This is consistent with the guardianship and conservatorship law. See Prob. Code § 1465(b). However, the court has authority to require that notice be given for a longer period, as discussed *supra*. In addition, where existing law provides for 10-days' notice by mail, the proposed law provides for 15-days' notice.

11. This provision is generalized from the guardianship and conservatorship law. See Prob. Code § 1466. Unlike service of summons under Code of Civil Procedure Section 415.10, where notice is personally delivered instead of mailed, notice is complete when the paper is personally delivered; no acknowledgment is required.

12. See Prob. Code § 1200.5(a)(20).

13. See Prob. Code § 1200(a)(4).

14. Prob. Code § 1206 (first sentence).

Request for Special Notice

Like existing law,¹⁵ the proposed law permits interested persons, including devisees, heirs, creditors, trust beneficiaries and others, to request special notice of estate proceedings. Unlike existing law, however, the proposed law does not contain a specific list of all the matters of which special notice may be requested.¹⁶ Rather, the proposed law permits notice to be requested of any petition filed in an estate proceeding, an inventory and appraisal or an objection thereto, a personal representative's account, or a report of status of administration. The proposed law also makes clear that the person requesting special notice may request notice of all matters by reference to the general section or may request notice of specified matters.

The proposed law contains a new provision drawn from the guardianship and conservatorship law¹⁷ permitting a request for special notice to be modified or withdrawn in the same manner provided for making an initial request.

Proof of Giving Notice

Like existing law,¹⁸ the proposed law requires proof of giving notice of a hearing to be made. The proposed law also provides general rules governing the manner of proof of mailing, publication, posting,

15. See Prob. Code §§ 1202-1202.5.

16. Probate Code Section 1202 provides that notice may be requested of any of the petitions or accounts "mentioned in Section 1200." Section 1202 was not amended to reflect the amendment of Section 1200 and enactment of Section 1200.5 in 1980. See 1980 Cal. Stat. ch. 955, §§ 29, 31. Thus, on its face, Section 1202 permits a request for special notice only in cases where notice is to be posted. It is assumed that this was not the intention of the 1980 legislation. The situation is further confused in existing law because various other sections located elsewhere in the code provide for giving notice to those who have made a request for special notice. See, e.g., Prob. Code §§ 591.1, 926.

17. Prob. Code § 2701(a).

18. See, e.g., Prob. Code §§ 333(c), 584.3(d), 852, 1200(b), 1200.5(c), 1202.5.

and personal delivery.¹⁹ Existing law provides that proof of notice is to be made at the hearing.²⁰ The proposed law also permits proof of notice to be made before the hearing.²¹

Waiver of Notice

The proposed law contains a new provision permitting the waiver of notice by a writing signed by the person who would otherwise be required to give notice, or the person's attorney, and filed in the proceeding.²² The provision also makes clear that a guardian ad litem, guardian, conservator, trustee, or other fiduciary may waive notice.

Notice to Known Heirs or Devisees

The proposed law sets out new rules governing who is to be given notice where notice is required to be given to known heirs or devisees. Where an estate is intestate, notice is given to the heirs named in the petition for letters of administration and to any additional heirs who become known to the person giving notice before notice is given. Where an estate is testate, notice is given to the devisees named in the petition for probate of the will and to any additional devisees who become known to the person giving notice before notice is given. However, if a person's interest in the estate has been satisfied pursuant to a court order or as evidenced by the person's written acceptance of satisfaction, no notice is required to be given under this general rule.

19. These rules are drawn from guardianship and conservatorship law. See Prob. Code § 1468.

20. Prob. Code §§ 1200(b), 1200.5(c).

21. This codifies existing practice. See 1 California Decedent Estate Practice § 6.37 (Cal. Cont. Ed. Bar 1986).

22. This provision is drawn from Section 1-402 of the Uniform Probate Code (1982).

Notice to Trust Beneficiaries Where
Personal Representative and Trustee are Same Person

As a general rule, the person named as trustee of a testamentary trust is given notice of estate proceedings, rather than the beneficiaries of the trust.²³ However, in order to avoid a potential conflict of interest where the personal representative and the trustee are the same person, the proposed law provides for notice to be given to other persons. If the trust has a cotrustee who is not a personal representative, the conflict is avoided by giving notice to the cotrustee. In other cases, notice is to be given to either (1) the persons who, under the terms of the trust, would be presently entitled to payments if the trust were in effect or (2) if there are not such person, to the persons who, under the terms of the trust, would be entitled to a distribution if the trust were terminated.

Miscellaneous General Provisions

The proposed law restates several existing general notice provisions,²⁴ and develops several new rules from existing statutes, such as provisions (1) dispensing with the need to give notice to oneself or to a person joining in the petition²⁵ and (2) permitting the court to shorten the time for giving notice on a showing of good cause.²⁶

23. See Prob. Code § 34 (defining "devisee" in the case of a trust to mean the trustee and not the trust beneficiaries).

24. E.g., the provisions permitting the court to require further or additional notice (see Prob. Code § 1204), dispensing with the need to give further notice of a continued or postponed hearing (Prob. Code § 1205), and governing notice in cases involving the parent-child relationship (Prob. Code § 1201).

25. See, e.g., Prob. Code §§ 851, 980(d), 1000, 1020, 1200.5.

26. See, e.g., Prob. Code §§ 771, 860, 1004, 1462(a), 17106. This rule does not apply to a petition for probate, for letters of administration, or in proceedings relating to the transfer of property claimed to belong to the decedent or other person, or to notice that is required to be given by publication.

Conforming Revisions

This recommendation also contains general provisions relating to rules of procedure, orders, and appeals. For the most part, these provisions merely renumber existing Probate Code Sections 1230-1242 which need to be moved in order to make room for the new provisions relating to notice.²⁷

27. Some new rules are generalized from provisions found in other sections. For example, a provision requiring papers to be verified, except as otherwise provided, is generalized from Probate Code Sections 467, 511, 541(b), 550, 578, 578a, 584.3(a), 584.5, 604, 608, 609, 613, 615, 705, 707, 718.5, 721(b), 755, 831, 841, 842.1, 851, 851.5, 921, 922, 1025.5, 1064, 1068, 1190, and 1354. A provision requiring the clerk to set matters for hearing is generalized from Probate Code Sections 327, 441, 578, 578a, 584, 584.2, 584.3, 584.5, 591.1, 591.7, 605, 643, 653, 662, 718.5, 755, 758, 771, 771.3, 810, 831, 841, 851, 851.5, 854, 1000, 1004, 1041, 1068, 1102, 1172, 1191, 1200, and 1355.

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DIVISION 3. ADMINISTRATION OF ESTATES OF DECEDENTS

CHAPTER 22. NOTICES

Probate Code §§ 1200-1242 (repealed). Notices, orders and procedure

SEC. . Chapter 22 (commencing with Section 1200) of Chapter 22 of Division 3 of the Probate Code is repealed.

Comment. For the disposition of the repealed sections, see the Appendix to this recommendation.

Probate Code §§ 1200-1265 (added). Notices

SEC. . Chapter 22 (commencing with Section 1200) is added to Division 3 of the Probate Code, to read:

CHAPTER 22. NOTICES

Article 1. General Notice Provisions

§ 1200. Application of chapter

1200. (a) Except as provided in subdivisions (b) and (c), this chapter governs notice required or permitted under this code.

(b) This chapter does not apply to proceedings under Division 4 (commencing with Section 1400) (guardianship and conservatorship) or Division 9 (commencing with Section 15000) (Trust Law), except that Sections 1201, 1202, 1204, 1205, 1207, 1240, 1241, and 1242 apply to proceedings under any of the divisions of this code.

(c) This chapter does not apply to notice under a particular provision to the extent that the particular provision is inconsistent with this chapter.

Comment. Section 1200 prescribes the scope of the provisions relating to notice in this chapter. Subdivision (b) supersedes subdivisions (c) and (d) of former Section 1200 and subdivisions (d) and (e) of former Section 1200.5. Notice under the guardianship and conservatorship provisions and under the Trust Law is governed by special provisions. See Sections 1460-1469 (guardianship and conservatorship) and 17100-17107 (trusts).

Subdivision (c) makes clear that this chapter does not apply to the extent that a particular notice provision is inconsistent with this chapter. See, e.g., Section 328 (petition for probate of will).

§ 1201. Notice not required to be given to oneself or persons joining in petition

1201. If a person is required to give notice, the person required to give the notice need not give the notice to himself or herself or to any other person who joins in the petition.

Comment. The part of Section 1201 relating to giving notice to oneself is drawn from other provisions in the Probate Code. See, e.g., Sections 851, 980(d), 1000, 1020. The part relating to giving notice to another person who joins in a petition is drawn from subdivision (b) of former Section 1200.5 (notice to coexecutor or coadministrator not petitioning). See also Section 1208 (notice where personal representative and trustee are same person).

CROSS-REFERENCES

Definitions

Person § 56

§ 1202. Additional notice on court order

1202. Where the court determines that the notice otherwise required is insufficient in the particular circumstances, the court may require that further or additional notice, including a longer period of notice, be given.

Comment. Section 1202 restates former Section 1204 without substantive change, using language drawn from subdivision (b) of Section 1462 (guardianship and conservatorship).

§ 1203. Order shortening time

1203. (a) Subject to subdivisions (b) and (c), the court may, for good cause, shorten the time for giving a notice of hearing.

(b) The court may not shorten the time for giving the notice of hearing required by Section 328, 441, or 9861.

(c) Unless the particular provision governing the publication of notice of hearing otherwise provides, the court may not shorten the time for publication of notice of hearing.

Comment. Section 1203 is drawn from Sections 1462(a) (guardianship and conservatorship) and 17106 (trust law) and generalizes former provisions. See, e.g., former Sections 771, 860, 1004.

Subdivision (b) excepts certain notices from the general authority of the court to shorten the notice period. See Sections 328 (petition for probate of will), 441 (petition for letters of administration), 9861 (transfer of property claimed to belong to decedent or other person).

Subdivision (c) makes clear that Section 1203 does not apply to publication of notice under this code. Where the court has authority to shorten the period of publication or to order a fewer number of publications, the particular section providing the manner of publication will expressly so provide.

CROSS-REFERENCES

Applicability of section § 1200

Order dispensing with mailed notice § 1220(e)

§ 1204. Waiver of notice

1204. A person, including a guardian ad litem, guardian, conservator, trustee, or other fiduciary, may waive notice by a writing signed by the person or the person's attorney and filed in the proceeding.

Comment. Section 1204 is drawn from Section 1-402 of the Uniform Probate Code (1982). As to the power of a guardian or conservator to waive any process, notice, or order to show cause on behalf of the ward or conservatee, see Section 1289.

§ 1205. Notice of continued or postponed hearing

1205. If a hearing is continued or postponed, no further notice of the continued or postponed hearing is required unless ordered by the court.

Comment. Section 1205 is drawn from part of former Section 1205. As to the court's authority to continue or postpone a hearing, see Section 1286.

§ 1206. Notice to known heirs or devisees

1206. (a) Subject to subdivision (b), where notice is required to be given to known heirs or devisees, notice shall be given to the following persons:

(1) If the estate is an intestate estate, to the heirs named in the petition for letters of administration and to any additional heirs who become known to the person giving the notice prior to the giving of the notice.

(2) If the estate is a testate estate, to the devisees named in the petition for probate of the will and to any additional devisees who become known to the person giving the notice prior to the giving of the notice.

(b) Notice need not be given to a person under subdivision (a) if the person's interest has been satisfied pursuant to court order or as evidenced by the person's written acceptance.

Comment. Section 1206 is new and is designed to make clear the meaning of "known heirs or devisees," or similar terms, used in various provisions of the Probate Code. This section codifies existing practice as to the giving of notice.

Section 1206 governs who must be given notice when the statute requires that notice be given to known heirs or devisees. The court may require additional notice. See Section 1202. The period and manner of notice are governed by the provision that incorporates this section or by the general provision that requires notice by mail under Section 1220 if no other method is specified in the provision requiring the hearing. See Section 1220(a).

CROSS-REFERENCES

Application of section § 1200

Definitions

Devisee § 34

Heirs § 44

Person § 56

Will § 88

§ 1207. Exceptions to notice requirement involving parent-child relationship

1207. (a) Subject to subdivision (b), where notice is required to be given to a decedent's beneficiaries, devisees, or heirs, notice need not be given to a person who, because of a possible parent-child relationship between a stepchild and a stepparent or between a foster child and a foster parent, may be (1) an heir of the decedent or (2) a member of a class to which a devise is made.

(b) Subdivision (a) does not apply where the person required to give the notice has actual knowledge of facts that a person would reasonably believe give rise under Section 6408 to the parent-child relationship between the stepchild and the stepparent or between the foster child and the foster parent.

Comment. Section 1207 restates former Section 1201 without substantive change. A stepchild or foster child who is not required to be given notice because of Section 1207 may request special notice under Article 6 (commencing with Section 1250).

CROSS-REFERENCES

Definitions

Beneficiary § 24

Child § 26

Devisee § 34
Heirs § 44
Parent § 54

§ 1208. Notice to trust beneficiaries where personal representative and trustee are same person

1208. (a) Except as provided in subdivision (b), if notice is required to be given to a trust or trustee, notice to trust beneficiaries is not required.

(b) Subject to subdivision (c), where the personal representative and the trustee, or the person named as trustee, are the same person, notice shall be given to (1) the persons who, under the terms of the trust, would be presently entitled to payments if the trust were in effect, or (2) if there are no such persons, to the persons who, under the terms of the trust, would be entitled to distributions if the trust were terminated at the time the notice is required to be given.

(c) Notice to trust beneficiaries is not required under subdivision (b) where the trust has more than one trustee and notice is given to a cotrustee who is not a personal representative.

Comment. Section 1208 is new. Subdivision (a) recognizes the general rule that notice is given to the trustee and not to the beneficiaries of the trust where notice is required to be given to devisees and a trust or trustee is a devisee. See Section 34 (trust beneficiaries are not devisees).

Subdivision (b) provides an exception to the general rule provided in subdivision (a). This exception recognizes that notice given by the personal representative to himself or herself as trustee would be meaningless and that, in some cases, the issue involved may present a conflict of interest between the interests of the personal representative and the interests of the trust beneficiaries.

Subdivision (c) makes clear that notice to trust beneficiaries under subdivision (b) is not required if there is a cotrustee who is independent of the estate administration.

CROSS-REFERENCES

Application of section § 1200

Definitions

Personal representative § 58

Trust § 82

Trustee § 84

§ 1209. Notice to State of California

1209. (a) Where notice is required to be given to the State of California, the notice shall be given to the Attorney General.

(b) Where notice is required to be given to the Attorney General, the notice shall be mailed to the Attorney General at the office of the Attorney General at Sacramento, California.

Comment. Subdivision (a) of Section 1209 is new. This section applies, for example, in a case where notice is required to be given to devisees under a will and the state is a devisee. In this case, the Attorney General is the proper recipient of the notice. This provision does not apply in a case where a specific provision requires notice to be given to some other officer. See, e.g., Section 700.1 (notice to Director of Health Services).

Subdivision (b) generalizes a provision of the second paragraph of Section 328.

CROSS-REFERENCES

Application of section § 1200

Mailing, manner of § 1215

Article 2. Mailing in General

§ 1215. Manner of mailing; when mailing complete

1215. Unless otherwise expressly provided:

(a) If a notice or other paper is required or permitted to be mailed to a person, notice shall be mailed as provided in this section or personally delivered as provided in Section 1216.

(b) The notice or other paper shall be sent by:

(1) First class mail if the person's address is within the United States. First class mail includes certified, registered, and express mail.

(2) Airmail if the person's address is not within the United States.

(c) The notice or other paper shall be deposited in a post office, mailbox, sub-post office, substation, mail chute, or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person to whom it is mailed.

(d) When the notice or other paper is deposited in the mail, mailing is complete and the period of notice is not extended.

Comment. Section 1215 is new and is drawn in part from Section 1465 (guardianship and conservatorship).

Subdivision (d) makes clear that the applicable period of notice is not extended where a notice or other paper is mailed. A particular provision may provide a different rule. E.g., Prob. Code § 10586 (notice of proposed action in independent administration).

§ 1216. Personal delivery instead of mailing

1216. (a) If a notice or other paper is required or permitted to be mailed to a person, it may be delivered personally to that person. Personal delivery as provided in this section satisfies a provision that requires or permits a notice or other paper to be mailed.

(b) Personal delivery pursuant to this section is complete when the notice or other paper is delivered personally to the person who is to receive it.

Comment. Section 1216 is new. Subdivision (a) is drawn from Section 1466 (guardianship and conservatorship). Subdivision (b) makes clear that personal delivery is complete when the notice or other paper is actually received. This rule differs from that applicable to personal service under Code of Civil Procedure Section 415.10. No acknowledgment of receipt is required under Section 1216.

§ 1217. Mailed notice where no other manner of notice specified

1217. If a notice or other paper is required to be served or otherwise given and no other manner of giving the notice or other paper is specified by statute, the notice or other paper shall be mailed or personally delivered as provided in this article.

Comment. Section 1217 is new. It provides a back-up manner of giving notice or serving other papers where no other manner is provided by statute.

Article 3. Mailing Notice of Hearing

§ 1220. Manner of mailing notice of hearing

1220. (a) Notice of hearing shall be given as provided in this section in the following cases:

(1) Where notice is required to be given as provided in Section 1220.

(2) Where notice of hearing is required and no other period or manner is prescribed by statute, except where the period or manner of notice is ordered by the court or judge.

(b) At least 15 days before the time set for the hearing, the petitioner or the person filing the report, account, or other paper shall cause notice of the time and place of the hearing to be mailed to all of the following:

(1) The personal representative.

(2) All persons who have given notice of appearance in the estate proceeding, in person or by attorney. If the person appeared by attorney, the notice shall be mailed to the attorney.

(c) The notice shall be addressed to the person required to be given notice at his or her office or place of residence, if known, or, if neither address is known, to the person at the county seat where the proceedings are pending.

(d) Nothing in this section excuses compliance with the requirements for notice to a person who has requested special notice pursuant to Article 6 (commencing with Section 1250).

(e) The court for good cause may dispense with the notice otherwise required to be given to a person under subdivision (b).

Comment. Section 1220 supersedes subdivisions (a) and (b) of former Section 1200.5. The list of petitions found in subdivision (a) of former Section 1200.5 has been omitted as unnecessary; the specific provision that relates to the particular petition has been revised to include a specific requirement in that provision that notice of the hearing be given as provided in Section 1220.

Subdivision (b) continues a portion of subdivision (b) of former Section 1200.5, but lengthens the time for mailing the notice from 10 to 15 days before the time set for the hearing. In addition, the requirement of subdivision (b) of former Section 1200.5 that notice be given to all persons who have requested notice is omitted from subdivision (b) of this section as unnecessary. Subdivision (d) makes clear that notice must be given to persons who have requested special notice. See Section 1252 (notice required to be given to person requesting special notice). This is consistent with the approach taken in Section 1460 (guardianship and conservatorship).

Subdivision (c) restates part of subdivision (b) of former Section 1200.5 without substantive change. Subdivisions (d) and (e) are new provisions drawn from Section 1460 (guardianship and conservatorship).

The person required to give notice by mail as provided in this section can satisfy that requirement by personal delivery of the notice to the person required to be given the notice. See Section 1216. As to shortening the time of notice, see Section 1203. The court may order additional notice. See Section 1202.

CROSS-REFERENCES

Additional notice § 1202

Application of chapter § 1200

Continued or postponed hearing § 1205

Definitions

Devisee § 34

Heirs § 44

Interested person § 48

Person § 56

Personal representative § 58

Mailing notice
Completion § 1215
Manner § 1215
Proof § 1261
Personal delivery instead of mailing § 1216
Persons joining in petition, notice not required § 1201
Shortening time § 1203
Special notice § 1252
Waiver of notice § 1204

Article 4. Posting Notice of Hearing

§ 1230. Manner of posting notice of hearing

1230. Where notice of hearing is required to be posted as provided in this section:

(a) At least 15 days before the time set for the hearing, the clerk shall cause a notice of the time and place of the hearing to be posted at the courthouse of the county where the proceedings are pending. If court is held at a place other than the county seat, the notice may be posted either at the courthouse of the county where the proceedings are pending or at the building where the court is held.

(b) The posted notice of hearing shall state all of the following:

(1) The name of the estate.

(2) The name of the petitioner.

(3) The nature of the petition, referring to the petition for further particulars.

(4) The time and place of the hearing of the petition.

Comment. Section 1230 restates subdivision (a) of former Section 1200 and former Section 1210 with the following significant revisions:

(1) Former Section 1200 listed the petitions to which the posting requirement applied. This list is not continued in Section 1230. Instead, a reference to Section 1230 is included in each provision that provides for notice by posting. See Sections 203, 1469, 9944, 9963, 10200, 10258, 10260, 10308.

(2) Former Section 1200 required posting at least 10 days before the hearing. Section 1230 requires posting at least 15 days before the hearing. The 15-day posting requirement conforms to the requirement that notice be mailed 15 days before the hearing. See Section 1221.

(3) The portion of former Section 1200 requiring the clerk to set the petition for hearing by the court has been omitted as unnecessary. See Section 1285 (clerk to set petitions for hearing).

Article 5. Citations

§ 1240. Issuance of citation

1240. A citation may be issued by the clerk on the application of any party, without a court order, except in cases where an order is expressly required by law.

Comment. Section 1240 restates the first sentence of former Section 1207 without substantive change.

§ 1241. Contents of citation

1241. The citation shall be directed to the person to be cited, signed by the court clerk, and issued under the seal of the court. The citation shall contain the title of the proceeding, a brief statement of the nature of the proceeding, and a direction that the person cited appear at a time and place specified.

Comment. Section 1241 restates the second sentence of former Section 1206 without substantive change.

§ 1242. Service of citation

1242. The citation shall be served on the person cited in the same manner as provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure. Except as otherwise provided by statute, the citation shall be served at least five days before its return day.

Comment. Section 1242 restates the second sentence of former Section 1207 without substantive change.

Article 6. Request for Special Notice

§ 1250. Request for special notice

1250. (a) At any time after the issuance of letters, any person interested in the estate, whether as devisee, heir, creditor, beneficiary under a trust, or as otherwise interested, may, in person or by attorney, file with the court clerk, a written request for special notice.

(b) The request for special notice shall be so entitled and shall set forth the name of the person and the address to which notices shall be sent.

(c) The request may request special notice of all of the following matters by referring generally to "the matters described in subdivision (c) of Section 1250 of the Probate Code" or by using words of similar import:

- (1) Any petition filed in the estate proceeding.
- (2) Inventory and appraisal of the estate, including any supplemental inventory and appraisal.
- (3) An objection to the appraisal made by the personal representative or probate referee.
- (4) An account of a personal representative.
- (5) A report of status of administration.

(d) The request may request special notice of fewer than all of the matters described in subdivision (c), in which case the request shall state specifically each of the matters of which special notice is requested.

(e) A copy of the request shall be personally delivered or mailed to the personal representative or to the attorney for the personal representative and is effective when personally delivered or received.

(f) The original of the request, when filed with the clerk, shall be accompanied by a written admission or proof of service.

Comment. Section 1250 replaces parts of former Sections 1202 and 1202.5. If a request for special notice is made as provided in this section, notice is required to be given as provided in Section 1252.

Section 1250 abandons the approach of the former law which purported to list the petitions of which special notice might be requested. Instead, subdivision (c) of Section 1250 permits the person requesting special notice to request notice of the matters described in subdivision (c), which includes all petitions and specified additional matters. Subdivision (d) continues the option available under former Section 1202 which permitted the person requesting special notice to describe specifically those matters of which special notice is requested if the person did not wish to receive special notice of all matters.

Section 1250 corrects a serious defect in former Section 1202. Former Section 1202 provided for special notice of only those petitions mentioned in former Section 1200. But in 1980, provisions in former Section 1200 applying to notice by mail were split out of that section and added to the then newly-enacted Section 1200.5. See 1980 Cal. Stat. ch. 955. Many sections containing cross-references to the mailed notice provisions of former Section 1200 were revised to refer to Section 1200.5, but not all cross-references were corrected. Former Section 1202 was not amended to reflect the fact that, after the 1980 revision, giving notice of most petitions by mail was made under Section 1200.5, rather than under Section 1200. As a result, former

Section 1202 (which provided for special notice of only those petitions mentioned in Section 1200) did not on its face require special notice of the petitions mentioned in former Section 1200.5 but not mentioned in former Section 1200. Therefore, by its terms, former Section 1202 provided for special notice only by posting, and only for petitions that were still mentioned in former Section 1200. Since the provisions governing mailed notice of hearing (see new Section 1220) no longer contain a list of petitions, Section 1250 adopts the approach that a person requesting special notice will be given notice of the filing of any petition unless the person requests notice only of specific matters listed in the request for special notice.

Subdivision (a) omits as unnecessary the specific reference to the State Controller that was found in former Section 1202. Where the State Controller has an interest in the estate, the State Controller would be included within the persons who can request special notice as a person "otherwise interested." As to the right of a federal agency to request special notice, see Section 1288.

Section 1250 also makes clear that the request for special notice must be given to the personal representative or his or her attorney. As to the manner of giving notice, see Section 1220. As to proof of giving notice, see Section 1261.

CROSS-REFERENCES

Definitions

Devisee § 34
Heirs § 44
Interested person § 48
Letters § 52
Person § 56
Personal representative § 58
Trust beneficiary § 24
Mailing notice § 1220
Proof of mailing § 1261

§ 1251. Modification or withdrawal of request for special notice

1251. A request for special notice may be modified or withdrawn in the same manner as provided for the making of the initial request.

Comment. Section 1251 is new and is drawn from part of subdivision (a) of Section 2701 (guardianship and conservatorship law).

§ 1252. Notice to be given to person requesting special notice

1252. (a) If a request has been made pursuant to Section 1250 for special notice of a hearing, the person filing the petition, report, or account, or other paper shall give written notice of the filing, together with the time and place set for the hearing, by mail to the person named in the request at the address set forth in the request, at least 15 days before the time set for the hearing.

(b) If a request has been made pursuant to Section 1250 for special notice of the filing of an inventory and appraisal of the estate or of the filing of any other paper that does not require a hearing, the inventory and appraisal or other paper shall be mailed not later than 15 days after the inventory and appraisal or other paper is filed with the court.

Comment. Section 1252 is drawn from Section 2702 (guardianship and conservatorship) and replaces the last sentence of former Section 1202 and the second sentence of former Section 1202.5. The 10-day notice period of former Section 1202.5(b) is replaced by a 15-day period. The 15-day period for special notice is consistent with the general period of notice provided in Section 1220 (notice of hearing by mail). The 15-day period may be reduced by an order shortening time. See Section 1203. See also Section 1204 (waiver of notice).

CROSS REFERENCES

Definitions

Person § 56

Mailing notice

Completion § 1215

Manner § 1220

Proof § 1261

Personal delivery, proof of § 1264

Persons joining in petition, notice not required § 1201

Proof of giving notice required § 1260

Shortening time § 1203

Waiver of notice § 1204

Article 7. Proof of Giving Notice

§ 1260. Proof of giving notice of hearing required; conclusiveness of order on proof of giving notice

1260. (a) If notice of a hearing is required, proof of giving notice of the hearing shall be made to the satisfaction of the court at or before the hearing.

(b) If it appears to the satisfaction of the court that notice has been regularly given or that the party entitled to notice has waived it, the court shall so find in its order.

(c) The finding described in subdivision (a), when the order becomes final, is conclusive on all persons.

Comment. Section 1260 is drawn from subdivision (b) of former Section 1200 and subdivision (c) of former Section 1200.5.

Subdivision (a) supersedes provisions found in various sections of the Probate Code. See, e.g., Sections 333(c), 584.3(d), 852, 1202.5. Subdivision (a) adds the requirement that proof of notice be made

either at or before the hearing. This is consistent with existing practice. See 1 California Decedent Estate Practice § 6.37 (Cal. Cont. Ed. Bar 1986).

Subdivision (b) of Section 1266 restates without substantive change parts of subdivision (b) of former Section 1200 and subdivision (c) of former Section 1200.5. The provision for waiver of notice is drawn from case law. See Estate of Poder, 274 Cal. App. 2d 786, 791-92, 79 Cal. Rptr. 484 (1969); Estate of Pailhe, 114 Cal. App. 2d 658, 662, 251 P.2d 76 (1952); Estate of Palm, 68 Cal. App. 2d 204, 213-14, 156 P.2d 62 (1945); In re Estate of Pierce, 28 Cal. App. 2d 8, 11-12, 81 P.2d 1037 (1938). See also Section 1204 (waiver of notice).

Subdivision (c) restates the rule of conclusiveness of the finding by the court concerning the giving of notice, which was found in subdivision (b) of former Sections 1200 and subdivision (c) of former Section 1200.5, without substantive change.

CROSS-REFERENCES

Application of chapter § 1200

Proof of giving notice

Mailing § 1261

Personal delivery § 1264

Posting § 1263

Publication § 1262

Waiver of notice § 1204

§ 1261. Proof of mailing

1261. Proof of mailing may be made in the manner prescribed in Section 1013a of the Code of Civil Procedure.

Comment. Section 1261 is drawn from subdivision (a)(2) of Section 1468 (guardianship and conservatorship). Section 1261 continues existing practice. See 1 California Decedent Estate Practice § 6.39 (Cal. Cont. Ed. Bar 1986).

§ 1262. Proof of publication

1262. Proof of publication may be made by the affidavit of the publisher or printer, or the foreman or principal clerk of the publisher or printer, showing the time and place of publication.

Comment. Section 1262 is drawn from subdivision (a)(4) of Section 1468 (guardianship and conservatorship). A declaration under penalty of perjury may be used instead of an affidavit. See Code Civ. Proc. § 2015.5; see also Code Civ. Proc. § 2015.6 (affirmation instead of oath).

§ 1263. Proof of posting

1263. Proof of posting may be made by the affidavit of the person who posted the notice.

Comment. Section 1263 is drawn from subdivision (a)(3) of Section 1468 (guardianship and conservatorship). Section 1263 is also drawn from existing practice. See 1 California Decedent Estate Practice § 6.46 (Cal. Cont. Ed. Bar 1986). A declaration under penalty of perjury may be used instead of an affidavit. See Code Civ. Proc. § 2015.5; see also Code Civ. Proc. § 2015.6 (affirmation instead of oath).

§ 1264. Proof of personal delivery

1264. Proof of notice by personal delivery may be made by the affidavit of the person making the delivery showing the time and place of delivery and the name of the person to whom delivery was made.

Comment. Section 1264 is drawn from subdivision (a)(1) of Section 1468 (guardianship and conservatorship). A declaration under penalty of perjury may be used instead of an affidavit. See Code Civ. Proc. § 2015.5; see also Code Civ. Proc. § 2015.6 (affirmation instead of oath).

§ 1265. Proof by testimony at hearing

1265. Proof of notice, however given, may be made by evidence presented at the hearing.

Comment. Section 1265 is drawn from subdivision (a)(5) of Section 1468 (guardianship and conservatorship).

Prob. Code §§ 1280-1299 (added). Orders and procedure

SEC. . Chapter 22.5 (commencing with Section 1280) is added to Division 3 of the Probate Code, to read:

CHAPTER 22.5. ORDERS AND PROCEDURE

Article 1. Rules of Procedure

§ 1280. Trials

1280. All issues of fact joined in probate proceedings must be tried in conformity with the requirements of the rules of practice in civil actions. The party affirming is deemed plaintiff, and the one denying or avoiding is deemed defendant. When a party is entitled to a trial by jury and a jury is demanded, and the issues are not sufficiently made up by the written pleadings on file, the court, on due notice, must settle and frame the issues to be tried. If no jury is demanded, the court must try the issues joined, and sign and file its decision in writing, as provided in civil actions. Judgment on the issue joined, as well as for costs, may be entered and enforced by execution or otherwise by the court as in civil actions.

Comment. Section 1280 restates former Section 1230 without substantive change.

§ 1281. New trials

1281. A motion for a new trial in probate proceedings can be made only in cases of contests of wills, either before or after probate, in proceedings to determine heirship and interests in estates, and in those cases where the issues of fact, of which a new trial is sought, were of such character as to entitle the parties to have them tried by a jury, whether or not they were so tried.

Comment. Section 1281 continues former Section 1231 without change.

§ 1282. Costs

1282. When not otherwise prescribed by this code or by rules adopted by the Judicial Council, either the superior court or the court on appeal, may, in its discretion, order costs to be paid by any party to the proceedings, or out of the assets of the estate, as justice may require.

Comment. Section 1282 continues former Section 1232 without change.

§ 1283. Rules of practice

1283. Except as otherwise provided by this code or by rules adopted by the Judicial Council, the provisions of Part 2 (commencing with Section 307) and of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure are applicable to and constitute the rules of practice in the proceedings mentioned in this code with regard to discovery, trials, new trials, appeals, and all other matters of procedure.

An affidavit or verified petition must be received as evidence when offered in any uncontested probate proceedings, including proceedings relating to the administration of estates of decedents and proceedings relating to the administration of estates of persons for whom a guardian or conservator has been appointed and in uncontested proceedings to establish a record of birth. The evidence of one or more of the subscribing witnesses may be received by an affidavit to which there is attached a photographic copy of the will, in any uncontested will proceedings.

Comment. Section 1283 continues former Section 1233 without change.

§ 1284. Verification required

1284. (a) Except as otherwise provided by statute, all of the following shall be verified:

- (1) A petition, report, or account.
- (2) An objection or response to a petition, report, or account.

(b) The verification of a petition shall be made by the petitioner. The verification of a report or account shall be made by the person making the report or account. The verification of an objection or response shall be made by the objector or respondent.

Comment. Subdivision (a) of Section 1284 generalizes provisions found in Sections 467, 511, 541(b), 550, 604, 608, 609, 613, 615, 921, 922, 1025.5, 1064, 1068, 1190, and 1354, and in former Sections 578, 578a, 584.3(a), 584.5, 705, 707, 718.5, 721(b), 755, 831, 841, 842.1, 851, and 851.5. Subdivision (a) is comparable to Sections 1450 (guardianship and conservatorship law) and 17201(a) (trust law).

Subdivision (b) is new. It makes clear who is to make the verification.

§ 1285. Clerk to set matter for hearing

1285. When a petition, report, account, or other matter that requires a hearing is filed with the clerk of the court, the clerk shall set the matter for hearing.

Comment. Section 1285 generalizes provisions found in Sections 327, 441, 605, 643, 653, 662, 718.5, 1000, 1004, 1041, 1068, 1102, 1172, 1191, 1200, and 1355, and in former Sections 578, 578a, 584, 584.2, 584.3, 584.5, 591.1, 591.7, 755, 758, 771, 771.3, 773, 810, 831, 841, 851, 851.5, and 854. It is comparable to Sections 1451 (guardianship and conservatorship law) and 17201(b) (trust law).

§ 1286. Continuance or postponement

1286. The court may continue or postpone any hearing, from time to time, in the interest of justice.

Comment. Section 1286 continues the first portion of former Section 1205 without change.

§ 1287. Hearing and order

1287. At the hearing the court shall hear and determine the matter and any response or objection presented and shall make such orders as may be appropriate.

Comment. Section 1287 generalizes a number of provisions found in the Probate Code. See, e.g., Sections 407, 440, 852.

§ 1288. United States as interested person

1288. Where compensation, pension, insurance, or other allowance is made or awarded by a department or bureau of the United States government to a decedent's estate, the department or bureau has the same right as an interested person to request special notice, to commence and prosecute an action on the bond of a personal representative, and to file written exceptions to a personal representative's account or contest the account.

Comment. Section 1288 restates former Section 1203 without substantive change. See Section 58 ("personal representative" defined).

§ 1289. Guardian or conservator acting for ward or conservatee

1289. If an interested person has a guardian or conservator of the estate who resides in this state, personal service on the guardian or conservator of any process, notice, or court order concerning a decedent's estate is equivalent to service on the ward or conservatee, and it is the duty of the guardian or conservator to attend to the interests of the ward or conservatee in the matter. The guardian or conservator may appear for the ward or conservatee and waive any process, notice, or order to show cause that a person not under legal disability might waive.

Comment. Section 1289 restates former Section 1208 without substantive change. See Section 48 ("interested person" defined).

Article 2. Orders

§ 1290. Recital of jurisdictional facts

1290. Orders and decrees made by the court or a judge thereof, in probate proceedings, need not recite the existence of facts, or the performance of acts, upon which the jurisdiction of the court or judge may depend, but it is only necessary that they contain the matters ordered or adjudged, except as otherwise provided in this code.

Comment. Section 1290 continues former Section 1220 without change.

§ 1291. Entry and filing

1291. All orders and decrees of the court or judge must be entered at length in the minute book of the court, or else signed by the judge and filed, provided that decrees of distribution shall be entered at length in a judgment book or other permanent record of the court.

Comment. Section 1291 continues former Section 1221 without change.

§ 1292. Recordation of order affecting real property

1292. (a) When an order is made determining any matter affecting title to real property, a certified copy of the order may be recorded in the office of the county recorder of any county in which the

property or a part thereof is situated. From the time of filing the certified copy of the order for record, notice is imparted to all persons of the contents of the order.

(b) For the purposes of this section, an order determining any matter affecting title to real property includes but is not limited to an order setting apart a probate homestead, confirming a sale of real property, making distribution of real property, or authorizing or directing any of the following:

- (1) Leasing real property.
- (2) Granting an option to purchase real property.
- (3) Executing a mortgage or deed of trust on real property.
- (4) Conveying real property.

Comment. Section 1292 restates former Probate Code Section 1222, making recordation permissive rather than mandatory. Making recording permissive rather than mandatory recognizes that the purpose of recordation is to give constructive notice to subsequent purchasers and encumbrancers. See Civil Code §§ 1213-1220.

Subdivision (b) continues a portion for former Section 1222 and portions of former Sections 786, 832, 842, and 852. The listing of various orders in subdivision (b) does not limit the unlimited right given by Section 1292 to record any order determining any matter affecting title to real property.

§ 1293. Delivery to county treasurer

1293. When a personal representative, public or otherwise, deposits money or other personal property in a county treasury during administration or after final distribution of the estate of a deceased person, the personal representative shall, within 30 days after the date on which the court makes the decree of distribution or any order amending the decree, deliver to the county treasurer a certified copy of the decree or other court order.

Comment. Section 1293 restates the first paragraph of former Section 1224 without substantive change. See Section 58 ("personal representative" defined). Section 1293 omits the second paragraph, which was a transitional provision that is no longer necessary.

Article 3. Appeals

§ 1297. Appealable orders

1297. An appeal may be taken from an order or the refusal to make an order:

- (a) Granting or revoking letters.
- (b) Admitting a will to probate or revoking the probate thereof.
- (c) Setting aside a small estate under Section 6609.
- (d) Setting apart property as a homestead or claimed to be exempt from enforcement of a money judgment.
- (e) Granting or modifying a family allowance.
- (f) Directing or authorizing the sale or conveyance or confirming the sale of property.
- (g) Directing or authorizing the granting of an option to purchase real property.
- (h) Adjudicating the merits of a claim under Chapter 11 (commencing with Section 9860) of Part 5 of Division 7.
- (i) Allocating debts under Section 980.
- (j) Settling an account of a personal representative.
- (k) Instructing or directing a personal representative.
- (l) Directing or allowing the payment of a debt, claim, devise, or attorney's fee.
- (m) Determining heirship or the persons to whom distribution should be made.
- (n) Distributing property.
- (o) Determining that property passes to, or confirming that property belongs to, the surviving spouse under Section 13656.
- (p) Fixing an inheritance tax or determining that none is due.
- (q) Authorizing a personal representative to invest or reinvest any surplus money under Section 9732.

Comment. Section 1297 restates former Section 1240 without substantive change. See Sections 52 ("letters" defined) and 58 ("personal representative" defined).

§ 1298. Reversal of order appointing personal representative

1298. If an order appointing a personal representative is reversed on appeal for error, all lawful acts in administration of the estate performed by the personal representative after qualification of the personal representative and before the reversal are as valid as though the order were affirmed.

Comment. Section 1298 restates former Section 1241 without substantive change. See Section 58 ("personal representative" defined).

§ 1299. Judgment roll

1299. The following papers, without being attached together, constitute the judgment roll in proceedings under this code:

(a) The petition, application, contest, report, or account that initiates a particular proceeding; any order directing notice to be given of the hearing; any notice of the hearing, or any order to show cause made, with the affidavits showing the publication, posting, or mailing of the notice or order as required by law or order of the court; the citation, in case no answer or written opposition is filed by a party entitled, by law or order of court, to notice of the proceeding by citation, with the affidavit or proof of service, and if service of the citation is made by publication, the affidavit for the publication and the order directing publication; any finding of the court or referee; the order or judgment made or rendered; and the letters, if any.

(b) If an answer, demurrer, written opposition, or counter petition is filed in the proceeding, all pleadings and papers in the nature of pleadings; all orders striking out any pleading in whole or in part; any order made on demurrer, or relating to a change of parties; the verdict of the jury, if any; and the papers described in subdivision (a).

(c) If the proceeding is for the probate of a will, the will; and if the proceeding is a contest of a will, or for the revocation of the probate of a will, or a partial, ratable, or final distribution of the estate under a will, the will and the order admitting the will to probate; and the papers described in subdivisions (a) and (b).

(d) If the proceeding is for the settlement of the final account of the personal representative, or for the final distribution of the estate, the affidavit showing publication of notice to creditors, and the papers described in subdivisions (a), (b), and (c).

Comment. Section 1299 restates former Section 1242 without substantive change. See Section 58 ("personal representative" defined).

APPENDIX

Disposition of Repealed Probate Code Sections

CHAPTER 22. NOTICES, ORDERS AND PROCEDURE

Article 1. Notices

§ 1200 (repealed). Posting notice

Comment. Subdivision (a) of former Section 1200 is replaced by Section 1230 (manner of posting notice of hearing) and 1285 (clerk to set matter for hearing). The list of petitions to which the posting requirement applied under former law is not continued.

Subdivision (b) is restated in Section 1260 (proof of giving notice) without substantive change, except that Section 1260 permits proof of posting to be made before the hearing, as well as at the hearing.

Subdivisions (c) and (d) are replaced by subdivision (b) of Section 1200 (application of general notice provisions).

Subdivision (e) is not continued. Under the new scheme, a reference to the general posting provision in Section 1230 is included in each section that provides for notice hearing by posting.

§ 1200.1 (repealed). Form of notice

Comment. Former Section 1200.1 is not continued. The statutory form has been superseded by Judicial Council forms.

§ 1200.5 (repealed). Mailed notice

Comment. Subdivisions (a) and (b) of former Section 1200.5 are replaced by Sections 1201 (notice not required to be given to oneself or persons joining in petition), 1216 (personal delivery instead of mailing), and 1220 (manner of mailing notice of hearing). The reference to legatee is unneeded because of the definition of "devisee" in Section 32.

Subdivision (c) is restated in Section 1260 (proof of giving notice) without substantive change, except that Section 1260 permits proof of giving notice by mail to be made before the hearing, as well as at the hearing.

Subdivisions (d) and (e) are replaced by subdivision (b) of Section 1200 (application of general notice provisions).

Subdivision (f) is not continued. Under the new scheme, a reference to the general mailing provision in Section 1220 is included in each section that provides for notice of hearing by mail.

§ 1201 (repealed). Exception to notice involving parent-child relationship

Comment. Former Section 1201 is restated in Section 1207 without substantive change.

§ 1202 (repealed). Persons entitled to request special notice

Comment. Former Section 1202 is replaced by Sections 1250 (request for special notice) and 1252 (notice to be given to person requesting special notice). The reference to the State Controller in former Section 1202 is not continued. See the Comment to Section 1250. The reference to legatee is unneeded because of the definition of "devisee" in Section 32. See also Section 52 ("letters" defined).

§ 1202.5 (repealed). Request for special notice of inventory and appraisalment

Comment. Former Section 1202.5 is replaced by Sections 1250 (request for special notice), 1252 (notice to be given to person requesting special notice), and 1260 (proof of notice required). The reference to legatee is unneeded because of the definition of "devisee" in Section 32. See also Section 52 ("letters" defined).

§ 1203 (repealed). Request for special notice by U.S. agencies

Comment. Former Section 1203 is restated in Section 1288 without substantive change.

§ 1204 (repealed). Additional notice

Comment. Former Section 1204 is restated in Section 1202 without substantive change.

§ 1205 (repealed). Continuance or postponement of hearing

Comment. Former Section 1205 is restated in Sections 1205 (notice of continued or postponed hearing) and 1286 (continuance or postponement) without substantive change.

§ 1206 (repealed). Personal notice by citation

Comment. The first sentence of former Section 1206 is not continued. Under the new scheme, where notice is required to be given by citation, the relevant section will so provide. If a section is silent on the manner of notice of a hearing, notice is given by mail as provided by Section 1220. The second sentence is restated in Section 1241 without substantive change.

§ 1207 (repealed). Issuance and service of citation

Comment. The first sentence of former Section 1207 is restated in Section 1240 without substantive change. The second sentence is restated in Section 1242 without substantive change.

§ 1208 (repealed). Service on guardian or conservator

Comment. Former Section 1208 is restated in Section 1289 without substantive change.

§ 1209 (repealed). Frequency of publication

Comment. Section 1209 is not continued. Where a particular section requires notice by publication, the section will provide for the frequency and period of publication. Daily publication is never required.

§ 1210 (repealed). Posting other than at county seat

Comment. Former Section 1210 is restated in subdivision (a) of Section 1230 without substantive change.

Article 2. Orders

§ 1220 (repealed). Recital of jurisdictional facts

Comment. Former Section 1220 is renumbered as Section 1290 without change.

§ 1221 (repealed). Entry and filing of orders

Comment. Former Section 1221 is renumbered as Section 1291 without change.

§ 1222 (repealed). Recording orders affecting real property

Comment. Former Section 1222 is renumbered as Section 1292, which makes recordation permissive rather than mandatory.

§ 1224 (repealed). Delivery of papers to county treasurer after deposit

Comment. The first paragraph of former Section 1224 is renumbered as Section 1293 without substantive change. The second paragraph is omitted; it was a transitional provision that is no longer necessary.

Article 3. Rules of Procedure

§ 1230 (repealed). Application of general rules of procedure

Comment. Former Section 1230 is renumbered as Section 1280 without substantive change.

§ 1231 (repealed). Motion for new trial

Comment. Former Section 1231 is renumbered as Section 1281 without change.

§ 1232 (repealed). Costs

Comment. Former Section 1232 is renumbered as Section 1282 without change.

§ 1233 (repealed). Application of Code of Civil Procedure

Comment. Former Section 1233 is renumbered as Section 1283 without change.

Article 4. Appeals

§ 1240 (repealed). Appealable orders

Comment. Former Section 1240 is restated in Section 1297 without substantive change.

§ 1241 (repealed). Effect of reversal of order appointing personal representative

Comment. Former Section 1241 is restated in Section 1298 without substantive change.

§ 1242 (repealed). Judgment roll

Comment. Former Section 1242 is restated in Section 1299 without substantive change.