

INFORMATION RE DOCUMENTS TO BE FILED

FOR GRANT OF PROBATE

Pursuant to Practice Direction 1 of 2020 (Electronic Filing in Civil Proceedings Temporary Arrangements) at paragraph 25, dispenses with the requirement for publication, where the notice is filed electronically with the Registry of the Supreme Court of the NT.

Where a notice required to be published under rule 88.09(1) of the Rules is electronically filed, the Proper Officer must publish the electronic notice on the Court's website as soon as practicable after the notice is filed. Please send notice to ProbateOfficer.NT@nt.gov.au.

The application cannot be lodged until two weeks have elapsed from the date of the publishing the notice.

Before coming to the Supreme Court to lodge the application, you must contact the Public Trustee's Office (Tel no: 8999 7271) to check that they do not have a will made out by the deceased, even if you know that they do not have one it is still a requirement as you will be swearing on oath that you have done so.

This information is not intended to be a substitute for legal advice. This information is designed to help you with a simple application for a grant of probate. This information does not cover all the various situations that can arise when applying for a grant of probate and the information and documents that may be required in the application may vary from case to case.

The forms in this application will need to be downloaded and edited to insert relevant information and to delete any instructions or inapplicable words before printing. They must be printed out, signed and witnessed as necessary, and lodged at the Registry with the payment form.

There is a filing fee for this application, please contact the Probate Officer to find out the current filing fee.

If you are unsure of whether you need to, or are entitled to, apply for a grant of probate in the Northern Territory, please seek legal advice from a qualified solicitor.

For any general queries, please call the Probate Officer on **(08) 8999 6562 - Darwin** or **(08) 8951 5727 - Alice Springs** or ProbateOfficer.NT@nt.gov.au.

Furthermore, there are additional requirements set out in Practice Direction 1 of 2020. Please see link below.

https://supremecourt.nt.gov.au/_data/assets/pdf_file/0007/810187/Practice-Direction-1-of-2020-amended-Electronic-Filing-in-Civil-Proceedings-Temporary-Arrangements.pdf

IMPORTANT DISCLAIMER

Registry staff cannot help complete forms or examine documents prior to filing and provide any legal advice. It is recommended that you seek the services of a qualified and independent legal professional to ensure the proper finalisation of any estate.

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Please note the information below:

- Please ensure that you print out the prescribed forms single sided on A4 paper.
- If the deceased died more than six months ago then an **Affidavit of Delay** will be required giving reasons for the delay.
- The back sheet is the page within the forms where the text appears to right side from the centre fold of the page. See page 3 of the forms for probate. The back sheet of all documents has to state the applicant's name, address for service in the NT and telephone number. If the applicant resides interstate then the address must be care of an agent in the NT.
- Affidavits are required to be signed in the presence of an authorised witness such as a Justice of the Peace or Commissioner for the Oaths.
- It is important to bear in mind that the particulars of the deceased shown in the death certificate and in the will must be compatible. For example if in the will the testator is shown as "Margaret Mary Smith of 7 Cavenagh Street Darwin, Clerical Assistant" and the death certificate shows "Maggie Smith of 10 Mitchell Street, Darwin, home duties" the heading on each document should reflect those differences as shown hereunder.

THE ESTATE of the late **MARGARET MARY SMITH** (also known as **MAGGIE SMITH**) late of 10 Mitchell Street, Darwin in the Northern Territory of Australia but formerly of 7 Cavenagh Street, Home Duties but formerly Clerical Assistant, deceased.

- The person applying for probate will be the executor(s) named in the original will. If the executor has changed their name or address after the will was executed (for example change of name by marriage), please include the following "MARY CITIZEN referred to in the will as MARY BEST of 1 Brown Street Darwin in the Northern Territory of Australia but formerly of 10 Little Street Campbell town in the State of New South Wales".

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THE DOCUMENTS TO BE FILED ARE:

APPLICATION

THE ORIGINAL WILL

- In addition to complying with the requirements under section 149 of the *Administration and Probate Act 1969*, an applicant must also electronically file a true copy of the original will when electronically submitting an application for a grant of probate or letters of administration with the will annexed.
- The applicant and witness to the affidavits must sign in the margin of each page.
- Please note that the original will should never be taken apart for any reason such as photocopying. It must always remain intact. If the will has any signs of tampering or damage, e.g. staple holes, rust marks etc. Executor must file an Affidavit of Plight addressing what has occurred with the will.

AFFIDAVIT OF LEGAL PRACTITIONER

- Pursuant to no.24 of Practice Direction 1 of 2020, Please provide an affidavit of legal practitioner. This will need to be completed by the legal practitioner.

AFFIDAVIT OF DEATH

- Please provide a certified copy of the death certificate. Please annex the copy of the death certificate to this affidavit.

NOTE: If the deceased was by known by a different name this must be referenced throughout application including the NT News advertisement. The “*also known as*” name can be found on the back page of the death certificate.

Please listed as follows eg. “**JOHN SMITH** also known as **JOHNNY SMITH**”.

AFFIDAVIT OF EXECUTOR

AFFIDAVIT OF IDENTITY

AFFIDAVIT OF ASSETS AND LIABILITES

In the Inventory of Property you must disclose full details of assets/liabilities of the estate. For example:

- Properties – List the address;
- Details of Bank Accounts: name of bank, account number and branch;
- Insurance/Superannuation: name of company/policy numbers;
- Shares: name of share, quantity and value;
- Motor Vehicles: make, model and registration number.

AFFIDAVIT OF PUBLICATION AND SEARCH

Please annex a copy of the notice of intended application.

OATH OF OFFICE

PROBATE

Please attach a copy of the will to this document. The copy of the will does not have to be a certified copy.