



## **Information Sheet**

### **Applying for Letters of Administration**

#### **What is Letters of Administration?**

You may need a grant of representation to legally take control of the assets of a person who has died (the deceased).

A grant of representation is a legal document issued by the Supreme Court of the Northern Territory (the Supreme Court), which is proof that the person named in the grant is entitled to collect and distribute the assets of the deceased in the Northern Territory.

One type of grant of representation is Letters of Administration. Where a person has died without leaving a will, the Supreme Court may grant Letters of Administration to an appropriate person to allow them to administer the deceased's estate in the Northern Territory. An appropriate person is usually a beneficiary of the deceased's estate.

#### **Who may apply for Letters of Administration?**

Pursuant to section 22(1) of the *Administration and Probate Act 1969* the Supreme Court may grant Letters of Administration to:

- (a) the spouse or de facto partner of the deceased;
- (b) one or more of the next of kin;
- (c) the spouse or de facto partner conjointly with one or more of the next of kin; or
- (d) such person, whether a creditor or not of the deceased, as the Court thinks fit.

Pursuant to section 22(2) of the *Administration and Probate Act 1969*, the Supreme Court will not grant Letters of Administration to a person who is not the spouse or de facto partner or one of the next of kin of the deceased unless:

- (a) there is no such spouse or de facto partner or next of kin;
- (b) there is no such spouse or de facto partner or next of kin within the jurisdiction who is, in the opinion of the Court, fit to be trusted; or
- (c) there is no such spouse or de facto partner or next of kin who when duly cited, appears and prays for administration.

For the purpose of applying for Letters of Administration, 'next of kin' is defined in section 6 of the *Administration and Probate Act 1969* to mean:

**next of kin**, in relation to a deceased person, means those persons, other than a spouse or de facto partner of the deceased person, who would be entitled to take an interest in the estate of the deceased person if he or she had died intestate.

In addition to this, to apply for Letters of Administration, you must be over the age of 18 years.

### **How do I apply for Letters of Administration?**

To apply for Letters of Administration in the Northern Territory you must:

1. Advertise your intention to apply for Letters of Administration on the Supreme Court website by filing a Notice of Intended Application for Letters of Administration (Form 88C) by email to [ProbateOfficer.NT@nt.gov.au](mailto:ProbateOfficer.NT@nt.gov.au)
2. Conduct a search of the index of wills by sending an email to [agd.publictrustee@nt.gov.au](mailto:agd.publictrustee@nt.gov.au) and asking the Office of the Public Trustee of the Northern Territory to undertake a search in the name of the deceased for the purpose of applying for Letters of Administration. You must do this because you are required to attest to it in your Affidavit of Publication and Search (Form 88I).
3. Conduct a search of the records of the Supreme Court by sending an email to [ProbateOfficer.NT@nt.gov.au](mailto:ProbateOfficer.NT@nt.gov.au) and asking the Probate Officer to undertake a search in the name of the deceased for the purpose of applying for Letters of Administration. You must do this because you are required to attest to it in your Affidavit of Publication and Search (Form 88I).
4. Complete the affidavits and forms to apply for Letters of Administration and file those by email to [ProbateOfficer.NT@nt.gov.au](mailto:ProbateOfficer.NT@nt.gov.au)
5. Pay the filing and search fee for applying for Letters of Administration. Court fees are published on the Supreme Court website at:

<https://supremecourt.nt.gov.au/lawyers#Court-Fees>

To pay a Court fee complete the electronic payment form and email it to [ProbateOfficer.NT@nt.gov.au](mailto:ProbateOfficer.NT@nt.gov.au)

### **What affidavits and forms must I file to apply for Letters of Administration?**

The *Supreme Court Rules 1987* (SCR) and Practice Direction 3 of 2020 prescribe the affidavits and forms that must be filed when applying for Letters of Administration, which include:

**1. Notice of Intended Application for Letters of Administration – Form 88C (refer to SCR 88.09(1))**

A Notice of Intended Application for Administration must refer to the deceased's legal name and any known aliases.

Practice Direction 3 of 2020 dispenses with the requirement for publishing a Notice of Intended Application for Letters of Administration in a daily newspaper, such as the NT News.

Instead, when a Notice of Intended Application for Letters of Administration is filed, it will be published on the Supreme Court's website as soon as practicable.

Please note: A Notice of Intended Application for Letters of Administration must be published on the Supreme Court website for 14 days before an application for Letters of Administration can be filed.

**2. Affidavit of Publication and Search – Form 88I (refer to SCR 88.24(1)(c))**

The Notice of Intended Application for Letters of Administration published on the Supreme Court website must be annexed to the Affidavit of Publication and Search.

As stated above, in the Affidavit of Publication and Search, you must attest to conducting a Probate search. You must therefore have undertaken that search prior to making the affidavit.

Also, as stated above, in the Affidavit of Publication and Search you must attest to conducting a search of the index of wills held by the Office of the Public Trustee of the Northern Territory. You must therefore have undertaken that search prior to making the affidavit.

**3. Application for Letters of Administration – Form 88A (refer to SCR 88.07(1))**

The Application for Letters of Administration must be signed by the person making application or the legal representative applying for Letters of Administration on behalf of the person making application.

**4. Affidavit of Death – Form 88G (refer to 88.24(1)(a))**

A true copy of the Death Certificate, including the front and back page, must be annexed to the Affidavit of Death.

**5. Affidavit of Applicant for Administration – Form 88K (refer to SCR 88.24(1)(b))**

The Affidavit of Applicant for Administration must state the gross value of the deceased's assets where indicated.

**6. Affidavit of Assets and Liabilities – Form 88T (refer to SCR 88.27(1))**

The inventory of property in the Affidavit of Assets and Liabilities must disclose full details of the assets and liabilities of the deceased. For example:

- Full address of any real property, such as Unit 5, 11 Mitchell Street, Darwin, Northern Territory;
- Full details of any bank accounts, including the name of the bank, branch where the account is held, account name and account number;
- Full details of any life insurance policy, including the name of the insurer and policy number;
- Full details of any shares, including the name of the shares, the number of shares held, and the value of each share;
- Full details of any motor vehicles, including the make, model, and registration number.

The value of each asset and liability must be provided, either an exact amount, or estimate.

The distribution of the deceased's estate under 'Persons Entitled' should reflect section 66, with reference to Schedule 6, of the *Administration and Probate Act 1969*.

## **7. Oath of Office – Form 88J (refer to SCR 88.23(7))**

As an administrator, you are responsible for making sure all the deceased's assets are accounted for, all the deceased's debts are paid and all beneficiaries receive their inheritance pursuant to the laws of intestacy.

You are required to file an Oath of Office that attests you will well and truly collect and administer, according to law, the estate of the deceased.

The role of administrator is important and you should be aware of what is required of you, according to law, before you apply for a grant of representation.

## **8. Proposed Grant of Letters of Administration**

The proposed Grant of Letters of Administration must state the gross value of the deceased's assets where indicated.

## **9. If applicable: Consent to Administration – Form 88L (refer to SCR 88.25(1)(a) and 88.24(2)(a)) and Affidavit of Witness to Consent – Form 88M (refer to SCR 88.25(1)(a) and 88.24(2)(a))**

A Consent to Administration must be completed and filed for the deceased's spouse, de facto partner and/or next of kin, who are living

in the Northern Territory, but are not applying for the grant of Letters of Administration.

The Consent to Administration must be accompanied by an Affidavit of Witness to Consent completed by the authorised witness who witnessed the Consent to Administration being signed by the deceased's spouse, de facto partner and/or next of kin.

If it is not possible to obtain a person's Consent to Administration you must provide an affidavit as to service, not later than 14 days before filing the application, on each of those persons whose consent to the grant is not filed, of notice of intention to make the application (SCR 88.24(2)(b)).

**10.If applicable: Affidavit of Identity – not a prescribed form (refer to SCR 88.12 and Practice Direction 3 of 2020, Part 7, Clause 40)**

An Affidavit of Identity must be filed if you are self-represented; that is filing for Letters of Administration yourself and not by way of a legal practitioner acting on your behalf.

**11.If applicable: Affidavit of Delay – not a prescribed form (refer to SCR 88.10)**

An Affidavit of Delay must be filed if you are applying for Letters of Administration more than six months after the date the deceased died.

**How should documents be filed with the Supreme Court?**

The affidavits and forms that you will need to file to apply for Grant of Letters of Administration are available on the Supreme Court website at:

<https://supremecourt.nt.gov.au/about/registry/wills-and-probate>

You should download the affidavits and forms and then edit them to include information specific to your application where indicated by brackets [ ]. You should delete any instructions or inapplicable words but do not change the formatting.

Once you have completed the affidavits and forms they should be printed single sided on A4 paper and signed before an authorised witness.

Thereafter, the signed affidavits and forms should be saved as separate documents in PDF format and named as they appear above, for example 'Affidavit of Assets and Liabilities – Form 88T'. Do not combine the affidavits and forms into one PDF document because they will not be accepted for filing.

To file the application for Letters of Administration, include all the affidavits and forms, attached as separate documents in PDF format, by email to [ProbateOfficer.NT@nt.gov.au](mailto:ProbateOfficer.NT@nt.gov.au) and pay the Court fee (filing and search fee).

Your application for a grant of Letters of Administration will not be taken as filed until you pay the Court fee.

**Is there anything else I should consider when applying for Letters of Administration?**

- Affidavits and forms should refer to the deceased's legal name and any known aliases. For example, "Margaret Mary Smith also known as Maggie Smith".
- Ensure the dates in affidavits and forms correspond to any annexed documents, such as the Death Certificate.
- Affidavits must be signed in front of an authorised witness as defined in section 15 of the *Oaths, Affidavits and Declarations Act 2010*, such as a Justice of the Peace or a Commissioner for Oaths. All pages of your affidavit must be signed by you and witnessed by the authorised witness. The authorised witness must also attest and sign each annexure clause to an affidavit.

**This information sheet is provided as a general guide only to assist in applying for Letters of Administration in standard matters that do not involve complex legal issues.**

**The Probate Officer can provide procedural advice to assist you apply for Letters of Administration but they cannot provide legal advice. They cannot help you to complete affidavits and forms nor examine documents prior to filing.**

**The Probate Officer can be contacted by phone in Darwin: 08 8999 6574 or Alice Springs: 08 8951 5727 or email: [ProbateOfficer.NT@nt.gov.au](mailto:ProbateOfficer.NT@nt.gov.au)**

**You are encouraged to obtain independent legal advice in relation to the specific circumstances of any application for Letters of Administration.**