



## **Information Sheet**

### **Applying for a Reseal of a Grant of Representation**

#### **What is a Reseal of a Grant of Representation?**

A grant of representation (whether it is Probate, Letters of Administration with the Will Annexed or Letters of Administration) is limited to the jurisdiction in which it is made because probate and administration laws vary between states, territories and countries.

For this reason, a grant of representation made by a court of competent jurisdiction outside the Northern Territory (for example, the Supreme Court of Victoria) may not give you, as the executor or administrator of an estate, the authority to deal with assets of a deceased that are held in the Northern Territory.

Rather than requiring a fresh application for a grant of representation, you may apply to the Supreme Court of the Northern Territory asking that it recognise the original grant of representation by resealing it with the seal of the Supreme Court of the Northern Territory.

In summary, a 'Reseal' is the expression used when you apply to the Supreme Court of the Northern Territory to recognise a grant of representation made by another court of competent jurisdiction.

A grant of representation re-sealed by the Supreme Court of the Northern Territory has the same force, effect and operation in the Northern Territory as the original grant of representation in the jurisdiction where it was made. The executor(s) or administrator(s) also have the same duties and liabilities.

#### **Who may apply for a Reseal of a Grant of Representation?**

Ordinarily, the executor(s) or administrator(s) to whom representation was granted by a court of competent jurisdiction would apply to the Supreme Court of the Northern Territory for a reseal of that grant of representation.

The executor(s) or administrator(s) may self-represent or instruct a legal practitioner to act on their behalf.

In relation to a grant of representation made outside Australia, please refer to section 111 of the *Administration and Probate Act 1969*, which provides that only a grant of representation made by a court of competent jurisdiction in a relevant country can be resealed by the Supreme Court of the Northern Territory.

Section 6 of the *Administration and Probate Act 1969* defines relevant country to mean:

**relevant country** means:

- (a) a State or another Territory of the Commonwealth of Australia;
- (b) a country that is prescribed; or
- (c) where a part of a country is prescribed – that part of the country.

### **How do I apply for a Reseal of a Grant of Representation?**

To apply for a Reseal of a Grant of Representation you must:

1. Advertise your intention to apply for a Reseal of a Grant of Representation on the Supreme Court website by filing a Notice of Intended Application for Resealing (Form 88D) 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 a Reseal of a Grant of Representation. 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 a Reseal of a Grant of Representation. 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 a Reseal of a Grant of Representation 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 a Reseal of a Grant of Representation. 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 a Reseal of a Grant of Representation?**

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

**1. Notice of Intended Application for a Reseal of a Grant of Representation – Form 88D (refer to SCR 88.09(1))**

A Notice of Intended Application for a Reseal of a Grant of Representation 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 a Reseal of a Grant of Representation in a daily newspaper, such as the NT News.

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

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

**2. Affidavit of Publication and Search – Form 88I (refer to SCR 88.26(1)(b)(i))**

The Notice of Intended Application for a Reseal of a Grant of Representation 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 a Reseal of a Grant of Representation – Form 88A (refer to SCR 88.07(1))**

The Application for a Reseal of a Grant of Representation must be signed by the person making application or the legal representative applying for a Reseal of a Grant of Representation on behalf of the person making application.

**4. Affidavit of Applicant for Resealing – Form 88S (refer to SCR 88.26(1)(a))**

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

**5. 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 the deceased's will (in the case of a Reseal of Probate or Letters of Administration with the Will Annexed) or section 66, with reference to Schedule 6, of the *Administration and Probate Act 1969*. If there are reasons to explain why an asset stated in the deceased's will, is not listed in the Inventory of Property, those reasons should be stated in the Affidavit of Applicant. For example, a deceased may give assets, like jewellery, to a beneficiary stated in their will prior to their death. Even if a distribution does not have a monetary value, such as a life interest in real estate, this should be stated under 'Persons Entitled'.

## **6. Proposed Reseal of Grant of Representation**

The original grant of representation or the electronic grant of representation or an exemplification of the grant of representation is to be attached to the proposed Reseal of a Grant of Representation.

A copy of the original grant that is certified by an authorised witness or legal practitioner will not be accepted for filing. There must be formal evidence of the grant of representation under the seal of the court of competent jurisdiction that issued it.

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

The affidavits and forms that you will need to file to apply for a Reseal of a Grant of Representation 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 a Reseal of a Grant of Representation, 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 a Reseal of a Grant of Representation will not be taken as filed until you pay the Court fee.

### **Is there anything else I should consider when applying for a Reseal of a Grant of Representation?**

- The particulars of the deceased and executors or administrators in the original grant should be consistent with the affidavits and forms.
- Ensure the dates in affidavits and forms correspond to any annexed documents, such as the original grant of representation.
- 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 a Reseal of a Grant of Representation in standard matters that do not involve complex legal issues.**

**The Probate Officer can provide procedural advice to assist you apply for a Reseal of a Grant of Representation 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 and 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 a Reseal of a Grant of Representation.**