

# INFORMATION RE DOCUMENTS TO BE FILED

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## FOR GRANT OF PROBATE

The first step is electronically file the Notice of intended application for publication on the Court's website. The Notice can be found on page 1 of the prescribed forms. Once you have completed the Notice, please send this page in PDF format to [ProbateOfficer.NT@nt.gov.au](mailto:ProbateOfficer.NT@nt.gov.au).

Please note the application and supporting affidavits cannot be lodged until two weeks have elapsed from the date of the publishing the notice.

Before you 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 via email 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](mailto:ProbateOfficer.NT@nt.gov.au).

Furthermore, there are additional requirements set out in Practice Direction 3 of 2020. Please see link below.

[https://supremecourt.nt.gov.au/\\_data/assets/pdf\\_file/0008/957185/Practice-Direction-3-of-2020-Electronic-Filing.pdf](https://supremecourt.nt.gov.au/_data/assets/pdf_file/0008/957185/Practice-Direction-3-of-2020-Electronic-Filing.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 retain the formatting of the prescribed form and print out the 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.
- 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".
- Please ensure that the Gross total value of assets is reflected in the Grant and Affidavit of Executor.
- 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 and condition addressing what has occurred with the will.

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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.

#### **AFFIDAVIT OF LEGAL PRACTITIONER**

Pursuant to Practice Direction 3 of 2020, Part 7, No.37, Despite whether an original will is produced or not produced with an application for a grant of probate or letters of administration with the will annexed, the applicant must file an affidavit of a legal practitioner deposing that the legal practitioner has carefully examined the will and has not detected anything that might indicate any of the following:

1. tampering with the will;
2. an attempt by a testator to vary the will;
3. that the will has otherwise not been validly executed;
4. that the will is not valid;
5. any other matter which requires production of the original will.

As the examination is conducted by the legal practitioner, this affidavit should be drafted 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 Notice. 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.

The amount of each asset/liability shall be stated in an affidavit filed or, if the amount is not known, an estimate of the amount shall be stated.

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## **AFFIDAVIT OF PUBLICATION AND SEARCH**

- Please annex a copy of the notice of intended application.
- A probate search is required to be conducted prior to signing this affidavit. Please submit the request to [ProbateOfficer.NT@nt.gov.au](mailto:ProbateOfficer.NT@nt.gov.au).

## **OATH OF OFFICE**

## **GRANT OF PROBATE**

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