

We have specialist solicitors for each area of law in which you might require assistance including:

- Car Accident Injury Claims
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- Criminal Law
- Employment Law (Unfair Dismissal & Underpayment Claims)
- Equal Opportunity / Discrimination Claims
- Estate Disputes & Inheritance Claims
- Family Law
- Migration Law
- Personal Injury / Public Liability Claims
- Probate & Letters of Administration
- Traffic Charges
- Victims of Crime Claims
- Wills / Powers of Attorney & Advance Care Directives
- Workers Compensation



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Obtaining a GRANT OF PROBATE or LETTERS OF ADMINISTRATION



Established in South Australia, our professional, friendly and supportive team is committed to providing you with the highest standards of service.

Our goal is to relieve the stress of your situation by providing sound advice and professional legal assistance.

To this end our Service Charter is based on six fundamental principles:



Respect

We work for you and acknowledge that as our client you deserve our attention and respect at all times.



Quality Service

We listen to your needs and ensure that you are fully informed and properly advised at all key stages.



Professionalism

We have the experience, competence and skill necessary to provide the legal service you need.



Knowledge

Through continuous and ongoing research and training we are up to date on all aspects of our areas of speciality.



Honesty & Integrity

At all times we will be open and honest and follow through on our commitments to you.



Best Outcomes

We work hard to achieve the best outcome for you in the circumstances of your case.

We look after our clients and build a relationship of trust so that they are confident to come back whenever they need a lawyer.

You may be faced with the prospect of having been appointed as the Executor of a Will or be an Administrator of a deceased estate and don't know what to do. There are certain obligations and responsibilities required of you in ensuring that administration and distribution of a deceased person's estate is effected in accordance with the terms of their Will.



Whilst some deceased estates can be dealt with in an informal manner others may require a Grant of Probate to be issued in order to deal with certain assets.

Being appointed as an Executor or Administrator of a deceased estate can often be a stressful exercise for the appointed person. Therefore we invite you to contact Websters Lawyers and let us take the burden off you by assisting in the legalities required in addition to assisting with the administration process, keeping you informed every step of the way.

What are the duties of an Executor?



An Executor is the legal representative of a deceased estate responsible for ensuring that the terms of the Will are carried out.

The basic duties of an Executor are to collect the assets of the deceased, pay the debts and distribute the estate to the beneficiaries in accordance with the provisions of the Will. How this is done depends on

the terms of the Will and the nature and extent of the assets of the estate.

Many executors choose to get a lawyer to act for them aware that they will not need to pay the legal costs involved personally as they can be claimed from the estate. If a Will is challenged or some other claim is made against the estate, the executor may be personally sued so it is sensible to obtain legal advice not just to protect the estate, but also your own position.

What is a Grant of Probate?

This process is basically the registration and proving of a person's Last Will and Testament.

A Grant of Probate is a certificate issued under seal by the Supreme Court of South Australia Testamentary Causes Jurisdiction validating the right of an Executor to administer the estate of a deceased person and assigning title to assets in the Executor.

The Grant is proof to anyone that the person/s named as Executor are entitled to collect and distribute the estate of the deceased.



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Is a Grant always necessary when dealing with an estate?

Whether a Grant of Probate is needed will depend on the nature and extent of the assets to be administered. For example, a bank holding money belonging to the deceased will need to know to whom that money should be paid and the Grant is proof that the person named (i.e. The Executor) is the person who is entitled to collect the money. If the deceased owned real property a Grant will always be required.

However, many estates may be administered informally (i.e. without a Grant). For example, banks and insurance companies may release money without a Grant if the amount is small and there are no complications.

Real property, bank accounts and any other assets held jointly will automatically vest in the surviving joint tenant by way of survivorship and cannot be altered by declarations in a Will.



What if no Will was left?

In the circumstances where no Will was in existence the deceased is regarded as having died intestate (i.e. dying without a Will).

The Supreme Court of South Australia is the court which has the exclusive jurisdiction in this State to make orders in relation to the appointment of an Administrator and the administration of a deceased estate.

An Application is made to the Court for a Grant of Letters of Administration as opposed to a Grant of Probate. The Court will determine who is entitled to be appointed as the Administrator of a deceased estate.

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Who can apply for a Grant of Letters of Administration?

The order of priority is as follows:

- The spouse or domestic partner;
- The children of the deceased or if they have died before the deceased then their children;
- The father or mother of the deceased;
- Brothers and sisters of the deceased, or if they have died before the deceased then their children;
- Grandparents of the deceased;
- Uncles or aunts of the deceased, or if they have died before the deceased then their children;

Whoever the Court issues the Grant to will be responsible for the entire administration of the estate until the final distribution of the assets is made to the beneficiaries.

Who is entitled to share in the distribution of an intestate estate?

The *Administration and Probate Act* governs distribution of an intestate estate and is very specific as to how the estate is to be distributed. The class of persons that may benefit are a spouse or domestic partner, children, grandchildren, or blood relatives. If there are no surviving persons entitled to benefit in an intestate estate then the estate ultimately will vest in the Crown.



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