

Letters of Administration: A Fact Sheet

What is an application for letters of administration?

An application for letters of administration is an application made if a person has died without a will.

Are letters of administration different from letters of administration with will annexed?

Yes, they are different. Letters of administration with will annexed are only made if there is no executor to make an application, that is if the will maker didn't appoint an executor or the only executor named in the will is deceased, unable, or unwilling to act.

Who makes the application?

Someone entitled to benefit from the deceased person's estate applies for letters of administration. This is usually the deceased's spouse or child; or, if they didn't have a spouse or child, their parent or sibling. If none of these people exist, another extended family member can apply. Who can make the application is determined by the Administration Act.

What are letters of consent?

Sometimes there is more than one person who is entitled to apply for letters of administration or letters of administration with will annexed. In this case, all of those people who are entitled to make the application, but aren't applying, must each provide letters of consent.

What are sureties or guarantees or a Section 17A Deed?

If there is a beneficiary who is a minor (under 18), then the applicant must get two people to guarantee that they (the sureties or guarantors) will make good any financial loss that minor beneficiary might suffer from the applicant's actions. This is to make sure the minor beneficiary's interest is protected.

What documents do I have to file with my application for letters of administration?

The documents to file with your letters of administration application are:

- a motion for letters of administration;
- an affidavit (a written and sworn statement that can be used as evidence in court) from you, the applicant, with a statement of the deceased's assets and liabilities (what they owned and owed);
- letters of consent (if any) from all other people entitled to benefit from the estate who aren't applying;
- any sureties, guarantees, or Section 17A Deeds (if required);
- the deceased's death certificate – the original and a copy; and
- the filing fee.

What documents I have to file with my application for letters of administration with will annexed?

The documents to file with your letters of administration with will annexed application are:

- a motion for letters of administration with will annexed;
- an affidavit from you, the applicant, with a statement of the deceased's assets and liabilities;
- letters of consent (if any) from all other people entitled to benefit from the estate who aren't applying;
- any sureties, guarantees, or Section 17A Deeds (if required);
- the original marked will;
- an Affidavit of Due Execution from a witness (if required);
- the deceased's death certificate – the original and a copy; and
- the filing fee.

What is "marking" a will?

You and your witness have to sign the original will, referred to as "marking" the will. Your signatures shouldn't obscure the will's content – it's advisable you sign on the cover or back of the will.

Need Legal Advice?

Contact CAB to make a low-cost appointment at our Perth office, at your nearest branch, or by telephone.

(08) 9221 5711 (Lines open Mon-Fri 9:30am-4:00pm) **Level 1, 25 Barrack Street, Perth WA 6000**

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