



## Seeking legal advice

It is preferable to always seek legal assistance when making an application. Advice must be sought from a lawyer if:

- the deceased person has no will
- you only have a photocopy of the will
- you are experiencing problems completing the probate application
- the application is for anything other than probate (for example, the executor named in the will is unable or unwilling to apply, or there is no executor appointed).
- the application is non-standard

In special circumstances where the value of the deceased's estate is minimal, the Senior Probate Officer may be able to help prepare the application. Contact the Probate Office for more information.

Probate Office staff cannot help complete forms, examine documents prior to filing, recommend any particular lawyer or give legal advice.

For more information, go to [www.supremecourt.wa.gov.au](http://www.supremecourt.wa.gov.au) > FAQ > Probate.

For legal assistance or help to find a lawyer

- **Law Society of WA referral scheme**  
9322 7877 or [www.lawsocietywa.asn.au](http://www.lawsocietywa.asn.au)
- **Community Legal Centres**  
[www.communitylaw.net](http://www.communitylaw.net)

## CONTACT

### Probate Office

Supreme Court of Western Australia  
Level 14, 111 St Georges Terrace  
PERTH WA 6000

**Business hours** 9am - 4pm, Monday - Friday  
**Phone** 9421 5152  
**Fax** 9421 5146  
**Email** [supremecourt.probate@justice.wa.gov.au](mailto:supremecourt.probate@justice.wa.gov.au)  
**Website** [www.supremecourt.wa.gov.au](http://www.supremecourt.wa.gov.au)

### Office of Births, Deaths & Marriages

Department of the Attorney General  
Level 10, Westralia Square Building  
141 St Georges Terrace  
PERTH WA 6000

**Business hours** 8.30am - 4.30pm, Monday - Friday  
**Phone** 1300 305 021  
**Fax** 9264 1599  
**Website** [www.bdm.dotag.wa.gov.au](http://www.bdm.dotag.wa.gov.au)

### Citizens Advice Bureau

25 Barrack Street  
PERTH WA 6000

**Business hours** 9am - 4pm, Monday - Friday  
**Phone** 9221 5711  
**Fax** 9221 5356  
**Email** [cab@cabwa.com.au](mailto:cab@cabwa.com.au)  
**Website** [www.cabwa.com.au](http://www.cabwa.com.au)

### Landgate

1 Midland Square  
Morrison Road (Cnr Great Northern Highway)  
MIDLAND WA 6056

**Business hours** 8am - 5pm, Monday - Friday  
**Phone** 9273 7373  
**Fax** 9273 7666  
**Email** [onlinesupport@landgate.wa.gov.au](mailto:onlinesupport@landgate.wa.gov.au)  
**Website** [www.landgate.wa.gov.au](http://www.landgate.wa.gov.au)

### Department of the Attorney General

**Phone** 13 67 57  
**Website** [www.dotag.wa.gov.au](http://www.dotag.wa.gov.au)

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Court & Tribunal Services Division

# What is Probate?

## Do I need to apply?



## What is probate?

If you have been appointed executor of a will you may need to apply for a grant of probate.

Probate is the process of proving a deceased person's will in the Supreme Court.

## When a grant of probate may be required

You are likely to require a grant of probate if the deceased held:

- assets (such as bank accounts, shares, real estate) solely in their name
- real estate as tenants in common with another party.

You may not require a grant of probate if:

- the deceased held real estate as a joint tenant (eg jointly with a spouse). In this case the title can be transferred by way of survivorship. Forms are available from Landgate: the agency responsible for WA's land and property information.
- bank accounts were jointly held. These will normally be transferred to the surviving party on production of a death certificate to the bank.

If you are unsure how a deceased's assets were held, you should enquire with the institutions holding these assets (banks etc).

## Applications

You may apply in person, or appoint a solicitor to act for you.

If applying for probate in person:

- Applications consist of a motion and affidavit and cannot be made until 14 days after the date of death.
- You may use the online forms available at [www.supremecourt.wa.gov.au](http://www.supremecourt.wa.gov.au) > FAQ > Probate.
- Application forms can also be purchased from the Citizens Advice Bureau.
- Once completed, you must swear or affirm your affidavit in the presence of a person authorised to witness your signature. Authorised witnesses include justices of the peace, experienced lawyers, registrars, clerks of courts or the Probate Office Manager.
- You and the witness must sign each page of the affidavit. The witness must also complete the section on the final page of the affidavit that sets out the place and date of swearing of the affidavit. You and the witness must also sign the will on a place which is not part of the text (for example, on the cover or the back page).
- **Do not** staple, pin or paperclip anything to the will.
- **Do not** remove staples or bindings to photocopy the will.

## Filing a probate application

You must file your application at the Probate Office either by post or by attending the Office in person.

You must include the original will and death certificate (issued by the Office of Births, Deaths and Marriages) with your application which includes your motion and affidavit. You should also include a photocopy of the death certificate if you want the original returned to you.

Filing fees must be paid when the probate application is filed. Charges will also apply for photocopies made by the Probate Office.

Payment can be made by cash, cheque, visa, mastercard or eftpos. Fees can be found at [www.supremecourt.wa.gov.au](http://www.supremecourt.wa.gov.au) > FAQ > Probate.

The Probate Office is located on level 14, 111 St Georges Terrace, Perth. Office hours are 9am to 4pm, Monday to Friday (excluding public holidays).

For your own records, always photocopy your documents before filing them at the Probate Office.

## What are letters of administration?

If a deceased person does not have a will, if their will does not appoint an executor or if the executor is unable or unwilling to apply for a grant of probate, then a grant of 'letters of administration' (with or without the will annexed) may be required.

Applications for grants of letters of administration are complex. There are no standard forms available and legal advice should be sought.