



# Applying for Letters of Administration when someone dies without a Will?

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Sorting out a loved one's financial affairs after their passing can be a daunting and confusing process. This can be even more confusing when that person has not left a [valid Will](#).

In this article, we provide some general information about the steps to be taken when a loved one dies without a valid Will. The process of [administering the deceased estate](#) when there is no Will can be a complicated one. So, if you are unsure of what to do next, contact IM Lawyers to see if we can help!

[Book a free initial consult: 1800 001 339](#)

## How can the estate be distributed if someone dies without a Will?

When a person dies without a valid Will, the legal term is that they have died 'intestate'. When this occurs, there are generally two options:

the Public Trustee can step in to deal with the administration of the estate (by applying what are called "rules of intestacy"); or

Someone or several people together can apply to the court to administer the estate. This process is referred to as applying for 'Letters of Administration'. The person applying for Letters of Administration must have a recognised relationship to the deceased person. This will change for each Letters of Administration application depending on the deceased's personal circumstances.

## Advertising intention to apply for Letters of Administration

The first step is for the applicant (or applicants) to advertise their intention to apply for Letters of Administration in the [Queensland Law Reporter](#). A copy of this advertisement must also be provided to the [Public Trustee](#).

This advertisement will need to appear for 14 days to allow the opportunity for any objection to be lodged. If an objection is lodged, it will be sent to the place directed in the advertisement, so it is important that this address is checked regularly during that 14-day period.

### **Gather relevant documents and evidence**

There are several prescribed court forms which need to be completed to apply for Letters of Administration in Queensland. There are also several important documents (such as the deceased's original death certificate) which will also need to be provided and used in the process.

Some of these forms need to be sworn and witnessed by a qualified person. A qualified person includes a [Justice of the Peace](#), a Commissioner of Declarations or a lawyer.

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## **Prepare various documents and file with the court**

After the 14 days of required advertising have passed, you may proceed to apply to the court for Letters of Administration. This involves:

- filing the various court forms and evidence in support, with the Queensland Supreme Court. These forms can only be filed by post or in person at the court registry unless a legal practitioner is filing them; and

- paying the applicable filing fee to the registry.

Once the application is submitted, it usually takes between four to six weeks for the court to consider the documents and grant the Letters of Administration. The court will notify the nominated contact party once a decision has been made.

## **Distribution of the estate**

Once the Letters of Administration are granted, the deceased person's estate must be dealt with in accordance with the *Succession Act 1981* (Qld) ('the Act').

The Act set out:

- those who have a recognised relationship and, therefore will be able to receive a benefit from the estate;

which order of priority those in such recognised relationships will have in respect of the estate; and

how the estate should be divided amongst those with a recognised relationship.

The Act looks first to spouses and children of the deceased and then considers people with more distant family relationships if, for example, the deceased did not have a spouse or child at the time of their passing.

It is worth noting that the Act does not allow for a benefit to be received by anyone with a relationship extending further than 1st cousins. This means that in-laws, friends and corporations or organisations (including charities) cannot benefit when the estate is administered in accordance with the intestacy rules.

## Making sure those who benefit from your estate are who you intended

The only way that a benefit can be paid to any people or organisations who are not recognised by Act is to [draft a Will](#). When you draft a Will, you're ensuring that those you intended are the beneficiaries of your assets. It's also important to [regularly review your Will and update it](#) when required.

## Get help from a Wills and estates lawyer

The loss of a loved one is an extremely emotional and stressful time, even without having to worry about dealing with the often quite complicated legal side of things.

Contact IM Lawyers to get the right advice early about your legal rights and options. We can alleviate a lot of the pressures and avoid a lot of issues when administering a deceased estate.

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*This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.*