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BARRISTERS SOLICITORS NOTARIES SINCE 1919

**ADMINISTERING AN ESTATE WITHOUT A WILL -  
LETTERS OF ADMINISTRATION**

*Matthew Wallis, Senior Associate  
Litigation and Wills and Estate Planning  
and*

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Despite the importance of having a valid will, it is common for people to put off the preparation of their will. Whatever their reasons, many people die "intestate" (without a valid will). Without a will, there are no directions from the deceased for the administration of their estate. Instead, the *Administration Act 1903* (WA) regulates how the estate is divided. The beneficiaries of the estate will depend on the value of the estate, and on the surviving relatives of the deceased, including their spouse, children, siblings or parents.

The person responsible for the estate of an intestate person is termed the "administrator" (in contrast to the executor, where the deceased had a valid will). The administrator is normally a spouse or other relative of the deceased.

In most cases, the administrator must apply to the Supreme Court of Western Australia for approval to distribute the estate in accordance with the Administration Act. Court approval is termed a "grant of letters of administration".

The application for letters of administration normally includes an affidavit by the administrator, a statement of assets and liabilities of the estate, and approvals from the other beneficiaries (authorising the administrator to deal with the estate). Court fees are charged on the application.

Administering an intestate estate can often be a complex process, and can be more costly and time-consuming than the administration of an estate where the deceased left a valid will.

A potential administrator should consider obtaining legal advice in relation to the letters of administration application process. If possible, the following information and documents should be brought to the initial meeting with a solicitor:

- Death certificate;
- Details of family members of the deceased, including their spouse, children and siblings. If the deceased had no close family members, it may be necessary to consider other relatives, including uncles, aunts and cousins;

- Details of all assets of the estate, including all real estate, bank accounts, shares, superannuation, and debts owed to the deceased;
- Details of all liabilities of the estate, including funeral and medical costs, bank debts, and other debts owed by the deceased;
- Whether the deceased has been lodging tax returns.

Once the grant of letters of administration has been obtained, the administrator should proceed with administering the estate in accordance with the Administration Act.

This is general information only, and does not constitute specific legal advice. If you would like further information in relation to estate administration or any other matters, or if we can assist you, please email us at [reception@hhg.com.au](mailto:reception@hhg.com.au).

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