

ESTATE ADMINISTRATION



A Plain-English Guide to Navigating Common Jargon

ADMINISTRATOR

A person appointed by the court to manage and distribute an estate when there's no valid Will or no Executor.

AFFIDAVIT

A written statement used as evidence in court, sworn or affirmed by a deponent.

BENEFICIARY

A person or entity named in the Will to receive a gift or benefit from the estate.

BEQUEST / LEGACY

A gift of personal property (not land) made in the Will.

CERTIFIED COPY

A document copy signed by an authorised person (such as a lawyer of a Justice of the Peace) as a true copy of the original.

CODICIL

A document which adds to, or amends, an existing Will. It must be signed and witnessed like a Will.

DEATH BENEFIT NOMINATION

Instructions to a super fund trustee about who should receive the member's benefits after death.

DEED OF FAMILY ARRANGEMENT

Agreement between beneficiaries and Executors to change how an estate is distributed.

DISTRIBUTION

Transfer of estate assets to the beneficiaries - can be interim or final.

ESTATE

All the assets owned by a person at death - including some outside the Will, such as super.

EXECUTOR

The person/s named in the Will to act in that role to carry out estate administration.

FAMILY PROVISION CLAIM (CHALLENGING THE WILL)

A legal claim by an eligible person seeking some or more from the estate than provided in the Will.

GRANTS OF REPRESENTATION

Court documents giving legal authority to manage an estate:

- Probate: Grant based on a valid Will.
- Letters of Administration: For estates without a Will.
- Letters of Administration (Annexed Will): When there's a Will but no Executor can act.

INFORMAL WILL

A non-standard document expressing testamentary wishes. Application can be made for a court to consider it a valid Will.

IN SPECIE TRANSFER

The transfer of an asset itself, rather than in the form of cash or cash equivalent.

INTESTACY

Occurs when someone dies without leaving a valid Will. State/territory law (rules of intestacy) determines who receives the estate.

INVENTORY OF PROPERTY

A list of the deceased person's assets and liabilities at the date of death, and the estimated values at that date.

ISSUE

A person's direct blood relatives in the younger generations (e.g., children, grandchildren).

JOINT TENANTS

A way to own property by two or more persons. If one joint tenant dies, the surviving joint tenant/s automatically own the property.

LEGAL PERSONAL REPRESENTATIVE (LPR)

The Executor or Administrator who represent the interests of the deceased person and administers their estate.

LIFE ESTATE / INTEREST

Gives ownership of a property to someone only for their lifetime. On their death, the property passes to a named Beneficiary, known as the Remainderman.

NOTICE OF DEATH

Notice to the Land Titles office that a joint tenant has died and the title to the property must be updated to the surviving joint tenant/s.

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RESIDUE OF ESTATE

The balance of the estate assets after payment of all funeral and estate expenses and the payment of any specific bequests in the Will - goes to Residuary Beneficiaries.

SPECIFIC BEQUESTS / LEGACIES

A gift expressed in a Will of a particular item or sum of money to a named Beneficiary.

TENANTS IN COMMON

A way to own property by two or more persons. Each tenant in common owns their share of the property separately from the other tenants in common. If a tenant in common dies, their share of the property is distributed as part of their estate.

TESTAMENTARY

Describes anything relating to a Will, including the act of making the Will and the provisions in it.

TESTAMENTARY EXPENSES

The expenses incurred after a person's death and as part of the administration of their estate.

These include funeral costs, professional services costs, and expenses of maintaining or distributing the estate assets. These are paid from estate assets before distribution to the beneficiaries.

If an Executor, Administrator, or Beneficiary pays for these costs personally, they are entitled to a reimbursement from the estate.

WILL

A testamentary document which details the intentions of a person about their personal affairs and disposing of property after death.

Each state and territory has legislation which governs how to make a valid Will.

TRANSMISSION APPLICATION

An application to the Land Titles office to register title to a property from the name of the deceased person to the name of an Executor, Administrator, or Beneficiary.

The Executor or Administrator might be registered on title to sell or otherwise deal with the property. Distribution of property to a Beneficiary is completed by transmitting the property to their names.

TRUSTEE

A person or entity who manages assets on behalf, and for the benefit, of another person according to the trust terms.

Even a simple Will is a type of trust because the Executor must only deal with the assets according to the directions in the Will.

If there are any minor beneficiaries of the estate, the Executor usually acts as a trustee to manage their share of the estate for them until they reach the specified age requirement.

TESTAMENTARY TRUST

A trust that is created by a Will and only comes into effect after the death of the person who made the Will.

NEED FURTHER CLARIFICATION?

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