

INFORMATION KIT

RESEAL OF FOREIGN GRANT

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INTRODUCTION

The Supreme Court of Tasmania

The Supreme Court of Tasmania has jurisdiction in Tasmania to make orders in relation to the validity of a Will of a deceased person, the appointment of an executor or an administrator, and the administration of deceased estates.

The Probate Registry

The Probate Registry deals with all applications for grants of Probate and Letters of Administration of deceased estates in Tasmania. It is responsible for determining, on application for a grant of Probate or Letters of Administration, what document or documents constitute the last Will of the deceased and/or who may be entitled to be the personal representative of the deceased, with power to deal with the estate of the deceased.

Deceased estates

When a person dies leaving assets in Tasmania, somebody (usually the executor of the person's Will) has to deal with the person's estate (e.g. manage and distribute).

If you are named as executor in someone's Will, and you accept this responsibility, then you must carry out the terms of their Will when they die. This is known as administering their estate. The first step is to apply for a grant of Probate. This is the court's official recognition that the Will is legally valid and that you have the authority to deal with the estate.

Generally this will involve:

- Identifying and collecting in all assets of the deceased;
- Paying any outstanding debts and necessary expenditure such as funeral expenses;
and
- Distributing the estate to the persons entitled to it.

In order to perform these tasks a grant of Probate or Letters of Administration may be required.

Grants of Probate or Letters of Administration

A grant of Probate or Letters of Administration are legal documents issued under the Seal of the Court which enables the person(s) named as executor(s) or administrator(s) to deal with the assets held by the deceased in Tasmania. It allows money of the deceased held in banks or other financial institutions to be collected and property to be sold or transferred



and debts to be paid. The grant is proof that the person named in the grant is entitled to collect and distribute the estate of the deceased.

The most common grants issued by the Court

Probate

Probate is the process of officially proving the validity of a Will as being the last Will of the deceased. A grant of Probate is issued when the deceased's last Will and testament is proved by one or more executors named in the Will. For further information please refer to the Information Kit for Probate.

Letters of Administration (with the Will annexed)

This is generally granted when the deceased has left a valid Will but the person named as executor cannot or will not apply for a grant. The grant will generally be made in favour of the person who has priority to administer the estate, as set out in Probate Rule 18. For further information please refer to the Information Kit for Letters of Administration (with the Will annexed).

Letters of Administration

If a person dies without a Will or any Will made is not valid, the Court may issue a grant of Letters of Administration. In most instances the grant is made to the next of kin of the deceased, as set out in Probate Rule 19. For further information please refer to the Information Kit for Letters of Administration.

Reseal of a foreign grant

If a deceased has an estate (assets and /or liabilities) in more than one jurisdiction (state or country) and the executor or administrator has obtained a grant (Probate, Letters of Administration etc.) in another jurisdiction (a foreign grant) they may apply to have that grant resealed by the Supreme Court of Tasmania in order to deal with the deceased's Tasmanian estate. A reseal has the same weight as if the original grant was issued by the Supreme Court of Tasmania.



OVERVIEW OF PROCESS

This Information Kit can be used as a guide on how to apply for the reseal of a foreign grant. The Information Kit is not intended to be a substitute for legal advice but as a basic guide to the application process. It is recommended that when applying to obtain a reseal of a grant that you obtain legal advice. If you do not have a lawyer you can visit the Law Society of Tasmania webpage at <https://lst.org.au/> and use the 'Find a Law Firm' search facility under the Administration of Estates area of practice.

Applying for a grant

1. Read this Information Kit.
2. Visit our website http://www.supremecourt.tas.gov.au/probate_and_administration.
3. Obtain the necessary supporting documents:
 - a. original grant (or exemplification issued under the seal of the foreign court); and
 - b. certified copy of the grant;

Note: other supporting documents may be required, for example: a Certificate of delay. Please refer to the Probate Rules and Forms.

4. Download and complete the following Probate Forms:
 - a. Notice of intention to apply for a grant or reseal of a grant (Form 2);
 - b. Notice of application to reseal Probate or Letters of Administration (Form 3);
 - c. Application for grant (Form 4);
 - d. Affidavit to accompany the resealing of a foreign grant (Form 8);
 - e. Affidavit of caveat search (Form 9) (some details will not be able to be completed until later in the process just leave a space to insert the details later);
 - f. Inventory of assets and liabilities (Form 10); and
 - g. Administration Bond (Form 22) if you are applying to reseal a grant of Letters of Administration or Letters of Administration (with the Will annexed) and the deceased died prior to 13 October 2015.

Visit http://www.supremecourt.tas.gov.au/probate_and_administration/procedure to



download the Probate Forms in Word format which will allow you to modify the forms before printing them out.

The format (including font layout) of the forms must not be amended. The content should only be amended when directed, see the notes at the end of each form and the guidelines on page 7 onwards.

Note: Do not sign your forms at this stage.

5. Notices:

a. Notice of intention to apply for a grant or reseal of a grant (Form 2):

- i. email your completed and proofed Notice of intention (Form 2):
- ii. in PDF format with the file name containing the full name of the deceased in the following format:

“BLOGGS James Steven.pdf”

- iii. to probate.notices@supremecourt.tas.gov.au;

- iv. with the full name of the deceased in the subject line and date of death in the following format:

“BLOGGS James Steven”

Your notice will be published on the Supreme Court of Tasmania website (in accordance with Probate Rule 33(3)).

Note: when one business day has elapsed please visit our website to confirm your notice has been published. If your notice has not been published please contact the Probate Registry.

b. Notice of application to reseal Probate or Letters of Administration (Form 3):

- i. arrange for your completed and proofed notice of application (Form 3) to be published in the Tasmanian Government Gazette and two newspapers (published in different parts of the state) (in accordance with s 49 of the Administration and Probate Act 1935).

Note: Once your notice of intention has been published on the Supreme Court of Tasmania website for 14 days and 14 days has passed since your notice of application appeared in the Gazette and two newspapers you may proceed to step 6.

6. If you are intending on filing your application in person on the same day that you sign



the Probate Forms please follow a. If you are intending on filing by post please follow b.

a. same day in-person filing:

- i. telephone or email the Probate Registry (see the contact details on page...) and undertake a caveat search. Simply ask if a caveat has been filed against the estate of ;
- ii. once you have received a response from the Probate Registry to your caveat search you can complete the outstanding details in your affidavit of caveat search;
- iii. sign the Probate Forms (see the guidelines on page 12): and
- iv. file your Probate Forms and supporting documents in-person at the Probate Registry of the Supreme Court of Tasmania (see page 14 for more information).

b. next day postal filing:

- i. sign the following Probate Forms (see the guidelines on page 12):
 - Application for grant (Form 4);
 - Affidavit to accompany the resealing of a foreign grant (Form 8);
 - Inventory of assets and liabilities (Form 10); and
 - Administration Bond (Form 22) if you are applying to reseal a grant of Letters of Administration or Letters of Administration (with the Will annexed) and the deceased died prior to 13 October 2015.

Note: Do not sign the affidavit of caveat search at this stage.

- ii. file your Probate Forms and supporting documents via post at the Probate Registry of the Supreme Court of Tasmania (see page 14 for more information);
- iii. when one to five business days has elapsed (depending on the postal service used) please telephone or email the Probate Registry (see the contact details on page...) and:
 - confirm the Probate Registry has received your application; and



- undertake a caveat search. Simply ask if a caveat has been filed against the estate of
- iv. once you have received a response from the Probate Registry to your caveat search you can:
- complete the outstanding details in your affidavit of caveat search;
 - sign the affidavit of caveat search (see the guidelines on page 12); and
 - file the affidavit of caveat search with the Probate Registry.



COMPLETING AND SIGNING APPLICATION DOCUMENTS

Guidelines for completing your Probate Forms:

A. General:

1. The Probate Forms must be typed, not handwritten.
2. The format (including font and layout) of the forms must not be amended. The content should only be amended when directed e.g. blue text.
3. It is recommended that you complete the forms in the following order:
 - a. Application for grant (Form 4)
 - b. Notice of intention to apply for a grant or reseal of a grant (Form 2);
 - c. Notice of application to reseal Probate or Letters of Administration (Form 3);
 - d. Affidavit to accompany the resealing of a foreign grant (Form 8);
 - e. Inventory of assets and liabilities (Form 10);
 - f. Administration Bond (Form 22) if you are applying to reseal a grant of Letters of Administration or Letters of Administration (with the Will annexed) and the deceased died prior to 13 October 2015; and
 - g. Affidavit of caveat search (Form 9)

Note: some details in your affidavit of caveat search will not be able to be completed until either the morning that you file your application in person or until after the Probate Registry has received your application via post (see s 49 of the Administration and Probate Act 1935).

B. Application for grant (Form 4)

4. The true legal name of the deceased should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms)
5. The date of death should be consistent across the documents. If it is not, the discrepancy must be explained in the application documents. The exact date of death, where it is known, must be stated in the application documents. If the date of death is uncertain the application documents should recite two dates. For example: "...died between 14 January 2015 and 16 January 2015".



6. The gross value of the estate must match the gross value stated in the Inventory of assets and liabilities. Use form 10 to calculate the gross value of the estate.
7. The true legal name of the applicant should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms).
8. The full residential address of the applicant should be provided.
9. Please ensure that the application states the correct application type and the date of any relevant documents are supplied if required.

Footer:

10. Please complete the required fields of information in the document footer. You do not need to supply a DX number or practitioner name if you are self-represented.

C. Notice of intention to apply for a grant or reseal of a grant (Form 2)

11. The true legal name of the deceased should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms)
12. The date of death should be consistent across the documents. If it is not, the discrepancy must be explained in the application documents. The exact date of death, where it is known, must be stated in the application documents. If the date of death is uncertain the application documents should recite two dates. For example: "...died between 14 January 2015 and 16 January 2015".
13. If there is no address stated in the Will for the deceased please state "not stated" in the relevant field. Delete this section in the form, and others with a * next to them, if not applicable.
14. When stating the date of the Will (the date the Will was signed) please include the date of any codicil or other testamentary disposition (list etc.) e.g. "01/01/1975 (Will) and 02/05/2014 (Codicil)". Delete this section in the form, and others with a * next to them, if not applicable.
15. The true legal name of the applicant should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms).
16. The full residential address of the applicant should be provided.



17. Please ensure that the applicants relationship to the deceased is stated e.g. “wife”, “father”, “cousin”, “stranger in blood” (if the deceased is not a blood relation e.g. friend, in-law, client etc.) etc.
18. If you are self-represented and an Australian Legal Practitioner is not filing the application on your behalf please state “N/A” in the relevant field.
19. An address for service must be provided. The address must be a residential or business address.
20. Please ensure that the notice states the correct application type and the date of any relevant documents are supplied if required.

Footer:

21. Please complete the required fields of information in the document footer. You do not need to supply a DX number or practitioner name if you are self-represented.

D. Notice of application to reseal Probate or Letters of Administration (Form 3)

22. The only part of this form which should appear in the Gazette and newspapers is the text contained in the box with text beginning “NOTICE OF...” and ending with “...signature”.
23. Please ensure that the notice states the correct type of foreign grant.
24. The true legal name of the applicant should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms).
25. The full residential address of the applicant should be provided.
26. Please ensure that the notice states your role e.g. executor (for Probate) or administration (for Letters of Administration).
27. The true legal name of the deceased should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms).
28. Again, please ensure that the notice states the correct type of foreign grant and also the Court from which the grant issued and the date of the grant.

Footer:

29. Please complete the required fields of information in the document footer. You do



not need to supply a DX number or practitioner name if you are self-represented.

E. Affidavit to accompany the resealing of a foreign grant (Form 8)

30. The true legal name of the deceased should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms)
31. The date of death should be consistent across the documents. If it is not, the discrepancy must be explained in the application documents. The exact date of death, where it is known, must be stated in the application documents. If the date of death is uncertain the application documents should recite two dates. For example: "...died between 14 January 2015 and 16 January 2015".
32. The true legal name of the applicant should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms).
33. The full residential address of the applicant should be provided.
34. You must choose to either "make oath" or "solemnly and sincerely declare and affirm" and amend the form accordingly (note: you cannot do both). You will also have to amend the jurat (signature section) to match the body of the affidavit by selecting either "sworn" if you are making oath or "affirmed" if you are solemnly and sincerely declaring and affirming.
35. The address the deceased was domiciled should be the deceased's permanent residence (**paragraph 2**).
36. The affidavit must confirm the type of the foreign grant (e.g. probate etc.) and also the Court from which the grant issued and the date of the grant (**paragraph 3**).
37. A copy of the Notice of intention (Form 2) published on the Supreme Court of Tasmania website and Notice of application (Form 3) published in the Gazette and two newspapers must also be annexed to Form 8. The dates of publication and the names of the newspapers must also be provided (**paragraph 5**).

Footer:

38. Please complete the required fields of information in the document footer. You do not need to supply a DX number or practitioner name if you are self-represented.

F. Inventory of assets and liabilities (Form 10)



39. The true legal name of the deceased should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms)
40. The Inventory must be completed in three sections:
 - a. Tasmanian assets;
 - b. assets outside of Tasmania; and
 - c. liabilities (include liabilities both in and outside Tasmania).

Note: The total value of each section must be calculated and the gross value of the Tasmanian assets section should be inserted in the relevant field in Form 4.

41. The assets and liabilities listed should either be:
 - d. solely owned by the deceased; or
 - e. held as tenants in common.

Note: If assets are listed that are owned by the deceased as a tenant in common, the deceased's share in the property should be specified e.g. "1/2 share in property at 1 Smith Street, Smithfield, Tasmania as tenant in common in equal shares"

42. The inventory should include sufficient detail of the assets for proper identification e.g. bank names and account numbers should be provided.
43. Superannuation or life insurance should only be listed in the inventory if the funds are to be paid to the estate. If Superannuation or life insurance is to be paid to a beneficiary under a binding nomination, or at the trustee of the superfunds discretion, such funds should not be listed in the Inventory of the Short Form Affidavit.

Note: If you are not sure if the funds are to be paid to the estate, please contact the relevant superannuation fund or life insurance company for clarification.

Footer:

44. Please complete the required fields of information in the document footer. You do not need to supply a DX number or practitioner name if you are self-represented.

G. Administration Bond

45. A bond is only required if:



- a. you are applying to reseal a grant of Letters of Administration or Letters of Administration (with the Will annexed); and
 - b. the deceased died prior to 13 October 2015.
46. The true legal name of the deceased should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms)
 47. The date of death should be consistent across the documents. If it is not, the discrepancy must be explained in the application documents. The exact date of death, where it is known, must be stated in the application documents. If the date of death is uncertain the application documents should recite two dates. For example: "...died between 14 January 2015 and 16 January 2015".
 48. The gross value of the estate must match the gross value stated in the Inventory of assets and liabilities. Use Form 10 to calculate the gross value of the estate.
 49. The true legal name of the applicant should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms).
 50. The full residential address of the applicant should be provided.
 51. Please ensure that the application states the correct application type and the date of any relevant documents are supplied if required.
 52. Paragraph 5(d) should be deleted, unless you are making an application for Letters of Administration with the Will annexed.
 53. Paragraph 5(e) should be deleted, unless you are a creditor of the deceased estate.
- Footer:*
54. Please complete the required fields of information in the document footer. You do not need to supply a DX number or practitioner name if you are self-represented.

H. Affidavit of caveat search (Form 9)

55. A caveat search must be undertaken either:
 - a. the morning of making your application (if filing in-person); or
 - b. shortly after your application is received by the Probate Registry (if filing by



post).

56. The true legal name of the deceased should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms)
57. The date of death should be consistent across the documents. If it is not, the discrepancy must be explained in the application documents. The exact date of death, where it is known, must be stated in the application documents. If the date of death is uncertain the application documents should recite two dates. For example: "...died between 14 January 2015 and 16 January 2015".
58. The gross value of the estate must match the gross value stated in the Inventory of assets and liabilities. Use form 10 to calculate the gross value of the estate.
59. The true legal name of the applicant should be consistent across all documents filed. If it is not, the discrepancy must be explained in the application documents (see the header of all Probate Forms).
60. The full residential address of the applicant should be provided.
61. The affidavit must confirm the date of your caveat search and the type of foreign grant being resealed (e.g. probate etc.) (**paragraph 1**).

Footer:

62. Please complete the required fields of information in the document footer. You do not need to supply a DX number or practitioner name if you are self-represented.

i. Signing your Probate Forms

63. 14 days must have elapsed since your notice of intention was published on the Supreme Court of Tasmania website and your notice of application was published in the Gazette and two newspapers.
64. The Application (Form 4) must be signed and dated by each applicant.
65. The Administration Bond (Form 22) must be signed as a deed, by each applicant, in the presence of the Registrar of the Supreme Court of Tasmania, a Justice of the Peace or Legal Practitioner and dated.
66. The Affidavit (Form 8) must be sworn or affirmed by each applicant in the presence of a Justice of the Peace or Legal Practitioner.

f. the jurat (signature section) of the Affidavit must be completed with the place



and date of signing;

- g. the annexure clauses on the annexures (e.g. Record of Death, Inventory) must be dated the same day as the jurat (signature section) and signed by the witness (the applicant does not need to sign the annexures). An annexure clause may be handwritten:

This is the annexure marked to in the Affidavit of [insert name of Applicant] sworn/affirmed before me this day of20.....

.....
Justice of the Peace/Solicitor

Note: please make sure you select sworn or affirmed and that the wording matches your affidavit. For example, if you swear your affidavit, you must swear your annexures and if you affirm your affidavit you must affirm the annexures. Please make sure the exhibit is dated and signed on the same date as your affidavit.

67. The Affidavit of caveat search (Form 9) must be sworn or affirmed by either:

- a. the applicant; or
- b. an Australian legal practitioner acting on their behalf;

in the presence of a Justice of the Peace or Legal Practitioner either:

- c. the morning of making your application (if filing in-person); or
- d. shortly after your application is received by the Probate Registry (if filing by post).

J. Finding a Justice of the Peace

68. You can locate a Justice of the Peace by contacting the Legal Aid Commission on 1300 366 611 or by visiting <http://www.tsjpi.asn.au/find.html>.
69. **Note:** A Justice of the Peace is available at the Hobart Supreme Court each Wednesday between 10:00 am and 2:00 pm. Availability at other times, or at other Supreme Court registries, may vary



FILING YOUR APPLICATION DOCUMENTS

Application checklist

DOCUMENT	✓
1. Application for grant (Form 4)	
2. Affidavit to accompany the resealing of a foreign grant (Form 8)	
3. original grant (or exemplification issued under the seal of the foreign court)	
4. certified copy of grant	
5. Notice of intention (Form 2)	
6. Notice of application (Form 3)	
7. Inventory of assets and liabilities (Form 10)	
8. Administration Bond (Form 22) (if the deceased died prior to 13 October 2015)	
9. Affidavit of caveat search (Form 9)	

You can file your application in person, by attending at the Probate Registry at the Supreme Court of Tasmania in Hobart. Alternatively, your application may be posted to:

Probate Registry
Supreme Court of Tasmania
GPO Box 167
HOBART TAS 7001

It is recommended that you send your application via registered post to increase the chance of secure delivery.

Certified copies

Please note that once filed the original Will and Record of Death will be retained by the Probate Registry as part of its official records.



You may wish to arrange for certified copies of both documents to be made before filing.

Requisitions

Please note that if your application contains any errors or is incomplete or unsatisfactory the Registrar may issue a requisition identifying the errors or deficiencies and asking you to amend your application or file a supplementary affidavit.

A requisition fee is payable upon the filing of your response to the requisition. The fee is available on our website at:

http://www.supremecourt.tas.gov.au/probate_and_administration/probate_fees

Provisional assessments

You may request a provisional assessment of your application prior to filing with your application with the Probate Registry (see Probate Rule 11).

A provisional assessment is an assessment of your draft application documents prior to you signing or filing them with the Probate Registry.

If you request a provisional assessment the Probate Registry staff will check your application documents for compliance with the Probate Rules.

A provisional assessment fee is payable upon filing your request for a provisional assessment. The fee is available on our website at:

http://www.supremecourt.tas.gov.au/probate_and_administration/probate_fees

A provisional assessment is not a substitute for legal advice.

The Registrar may decide not to accept your request for a provisional assessment for any reason.



FEES

The fees are available on our website at:

http://www.supremecourt.tas.gov.au/probate_and_administration/probate_fees

The filing fee may be paid:

1. at the time of making the application; or
2. once the grant has been signed by the Registrar (a letter will be sent to the applicant requesting payment).

Note: It is only once payment has been received by the Registry that the grant will be released to you.

Payment can be made by:

1. **Cash**

Please ensure that cash is hand delivered.

2. **Money order, bank or firm cheque (made payable to the Supreme Court of Tasmania)**

Please ensure that money orders or cheques are either hand delivered or posted to:

Probate Registry
Supreme Court of Tasmania
GPO Box 167
HOBART TAS 7001

3. **Credit card**

Please attend at the Probate Registry to pay by credit card or alternatively call us on (03) 6165 7456 or (03) 6165 7434 or email us at probate@supremecourt.tas.gov.au.

4. **Electronic funds transfer (EFT)**

Please ensure that, if paying by EFT, remittance advice is emailed to: probate@supremecourt.tas.gov.au.

Our details are:

Bank:	Westpac
Account Name:	Department of Justice Operating Account
BSB:	037-001
Account Number:	267793
Reference:	the deceased's name



LEGAL RESOURCES

Further information about Probate applications is available on our website http://www.supremecourt.tas.gov.au/probate_and_administration. The following are links to relevant legislation, rules and court forms:

- [Administration and Probate Act 1935](#)
- [Intestacy Act 2010](#)
- [Probate Forms](#)
- [Probate Rules](#)
- [Supreme Court Rules 2000, Part 32, Division 6](#)
- [Testators Family Maintenance Act 1912](#)
- [Wills Act 2008](#)
- [Will Act 1992](#)

Please note that the Probate Registry cannot give legal advice. If you are having difficulties with your application then you should seek legal advice from a legal practitioner.



CONTACTING THE PROBATE REGISTRY

Before contacting the Probate Registry we recommend that you read this Information Kit.

Applicants are responsible for ensuring that all paperwork is complete and accurate before lodging it with the Court.

If you are having difficulties with your application then you should seek legal advice from a legal practitioner.

Staff:

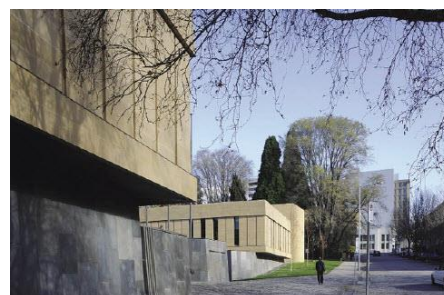
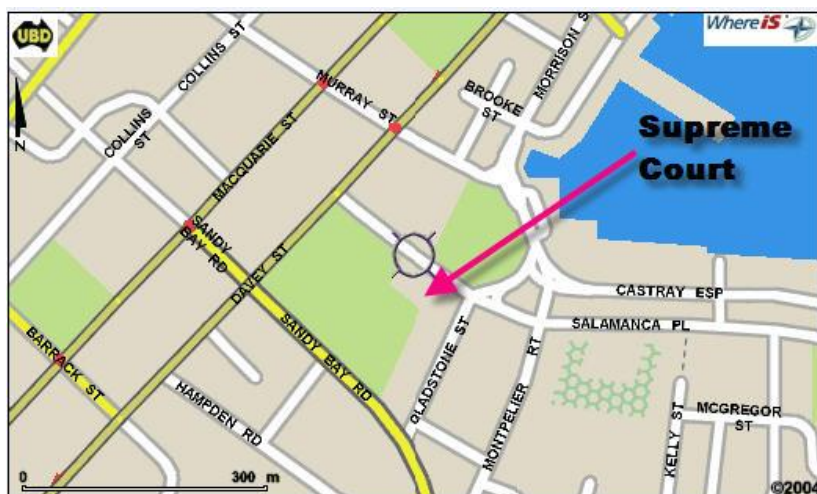
Assistant Deputy Registrar
Probate Supervisor
Probate Registry Administration Officer

Opening hours:

9 am – 5 pm
Monday – Friday

Location:

Probate Registry
Supreme Court of Tasmania
5 Salamanca Place
Hobart Tasmania



Telephone number:

General Enquiries 1300 664608
International telephone calls: + 61 3 followed by the last eight digits of the number.



Postal Address:

Probate Registry
Supreme Court of Tasmania
GPO Box 167
HOBART TAS 7001

Email Address:

probate@supremecourt.tas.gov.au