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LawTalk Blog



How do I verify my identity for Probate and Land Dealings?

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It has always been a requirement in South Australia to be appropriately identified in accordance with strict requirements before transferring land into or out of your name.

As of 26 November 2018, when South Australia became the first jurisdiction in Australia to introduce the electronic lodgement of probate applications to the Supreme Court of South Australia ("Supreme Court") through the CourtSA website, it is now a requirement for intended Executors and Administrators of deceased estates to be identified in accordance with the same guidelines as followed for the transfer of land when applying for a Grant through a Legal Practitioner, which are the identity requirements set out by the Registrar-General.

When an intended Executor or Administrator is applying in his or her personal capacity, they must be able to produce 100 points of identification.

Registrar-General's Verification of Identity Requirements for Transfer of Land

The verification of identity requirements are set out in a document called the "Registrar-General's Verification of Identity Requirements, Version 5" which can be easily found on the [Land Services SA website](#).

The Registrar-General's requirements are outlined in Appendix B under various numbered categories and ideally require the applicant to produce an Australian passport and driver's licence in the same name to the person verifying their identity, who will usually be a Legal Practitioner or Conveyancer.

If the applicant can not produce both a passport and driver's licence, various combinations of identification documents made up of the following may be provided:

1. Australian passport;
2. Australian driver's licence;
3. Full birth certificate;
4. Citizenship certificate;
5. Medicare, Centrelink or Department of Veteran's Affairs card;
6. Any change of name or marriage certificates showing name changes and linking documents.

For Non-Australian citizens or residents, different documents are required and assistance from a Legal Practitioner or Conveyancer is likely to be necessary to ensure adequate identification can take place.

The above requirements must be adhered to when transferring land in South Australia for a transfer to be processed in the Land Titles Office.

Applying for a Grant through a Legal Practitioner

When applying for a Grant of Probate or Letters of Administration through a Legal Practitioner, the same verification of identity procedure as required for the transfer of land must now be adhered to.

Applying for a Grant of Probate or Letters of Administration through a Legal Practitioner will often be necessary in circumstances where, for example, there are issues with the named executor/s, the deceased person held complex assets, there are informalities with the Last Will of the deceased or if there is a dispute between potential executors.

At the time a Legal Practitioner submits an application for a Grant on an applicant's behalf, he or she is required to "tick a box" undertaking to the Supreme Court that he or she has identified the applicant or applicants in accordance with the Registrar-General's Verification of Identity Requirements.

The application can not be submitted in the absence of this undertaking so it is crucial to provide your original documents to your Legal Practitioner for viewing and copying.

Applying for a Grant through CourtSA as a self-represented person

As of 9 September 2019, if you have been named as an Executor or are applying for Letters of Administration and you are attempting to apply for a Grant through CourtSA yourself, you will be required to lodge with your application a Form as set out in Practice Note 1 of 2019 (which can be found on the CourtSA website).

To complete this form, you will be required to attend before a Solicitor, Justice of the Peace or any other Authorised Person as specified in the Form for the purposes of having your identity verified by providing 100 points of identification.

Advice: Plan ahead!

Being aware of what identity documents may be required and taking action to obtain these documents could reduce the likelihood of delays when making land transfers and when applying for Grants in the Supreme Court of South Australia. Avoiding unnecessary delays can be particularly important in deceased estates where the deceased's loved ones are relying on a Grant to come through in a timely fashion to avoid financial hardship at an already stressful and difficult time.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.