



Western Australia

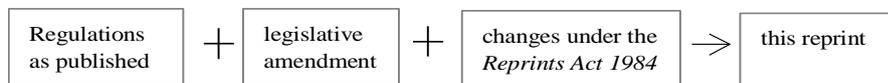
Administration Act 1903

# **Administration Act Regulations 1970**

**Reprint 1: The regulations as at 7 November 2003**

## Guide for using this reprint

### *What the reprint includes*



### *Endnotes, Compilation table, and Table of provisions that have not come into operation*

1. Details about the original regulations and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the regulations being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### *Notes amongst text (italicised and within square brackets)*

1. If the reprint includes a regulation that was inserted, or has been amended, since the regulations being reprinted were made, editorial notes at the foot of the regulation give some history of how the regulation came to be as it is. If the regulation replaced an earlier regulation, no history of the earlier regulation is given (the full history of the regulations is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
  - removed (because it was repealed or deleted from the law); or
  - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

### *Reprint numbering and date*

1. The reprint number (in the footer of each page of the document) shows how many times the regulations have been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3<sup>rd</sup> reprint since the regulations were published. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the regulations are reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.





Western Australia

## Administration Act Regulations 1970

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Reprinted under the  
*Reprints Act 1984* as  
at 7 November 2003

Western Australia

Administration Act 1903

## **Administration Act Regulations 1970**

### **1. Citation**

These regulations may be cited as the *Administration Act Regulations 1970*<sup>1</sup>.

### **2. Commencement**

These regulations shall take effect on and from 1 January 1971.

### **3. Statement of assets and liabilities to be completed**

Every executor, administrator or person required by law to do so shall complete a statement of assets and liabilities in accordance with Form 1 in the appendix, setting forth therein the full and true particulars and value of the estate of the deceased person specified in the statement and the particulars set forth in the statement shall be verified by affidavit.

### **4. Statement to be filed within 6 months**

The statement of assets and liabilities referred to in regulation 3, shall be filed in the office of the Commissioner of State Taxation<sup>2</sup>, within 6 months of the date of the death of the

deceased person to whose estate the statement relates, for the purpose of having the duty assessed on that estate.

**5. Commissioner may verify statement**

The Commissioner of State Taxation <sup>2</sup> may require the production of all books, papers, vouchers and other documents that are in the custody or power of the person to whom the grant is made, for the purpose of vouching for the correctness of the facts stated in the affidavit, verifying the particulars set forth in the statement of the assets and liabilities of the estate concerned and of affording the Commissioner any further information he may require relating to that estate.

**6. Commissioner's certificate**

When the duty assessed by the Commissioner of State Taxation <sup>2</sup> is paid, the Commissioner shall issue a certificate in accordance with Form 2 in the appendix but in any particular case may issue the certificate at any other time.

**7. Return relating to settlement**

The trustee or any person interested under a settlement shall, within the time prescribed under section 83 of the Act after the death of any person in respect of whose death the interest of any such person arises under that settlement, file with the Commissioner of State Taxation <sup>2</sup> a statement in accordance with Form 3 in the appendix within one month of the interest arising, together with the original settlement or a properly authenticated copy thereof, if the Commissioner is satisfied that the original cannot be produced by reason that it has been filed or registered in some other jurisdiction, together with an additional copy of the settlement for filing.

**8. Return of succession**

The statement to be filed by a person becoming beneficially entitled to any property charged with duty under section 90 of the Act, or by any trustee, guardian or committee in whom the

property is vested, shall be in accordance with Form 4 in the appendix and shall contain such other particulars as the Commissioner of State Taxation <sup>2</sup> may require in the particular circumstances of the case.

**9. Commissioner may verify returns**

The Commissioner of State Taxation <sup>2</sup> may require the production of any books, vouchers, letters, and documents and other particulars for the purpose of vouching for the correctness of the facts stated in any statement required to be filed under regulations 7 and 8.

**10. Evidence of age of beneficially entitled person**

Where any person succeeds to an annuity or life interest, that person shall disclose his age and shall, if required so to do by the Commissioner of State Taxation <sup>2</sup>, verify his age by production of a certificate of birth or other satisfactory evidence.

**11. Return of proceeds of policies paid out**

The return required to be furnished by life assurance companies or societies under section 120 of the Act shall be in accordance with Form 5 in the appendix.

**12. Return of proceeds of bank, etc., accounts**

The return required to be furnished by banks under section 139(2) of the Act shall be in accordance with Form 6 in the appendix.

**13. Fees**

The following fee is prescribed under section 128 of the Act in relation to the following matters:

- (a) for inspecting any statement filed for the purposes of Part V of the Act in the office of the Commissioner of State Taxation <sup>2</sup> by any executor, administrator, or other person..... \$2.00 ;

**r. 14**

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- (b) for supplying a copy of any statement referred to in paragraph (a) in addition to the fee payable under that paragraph..... \$1.00 ;
- (c) for certifying the copy or extract of any statement so referred to, to be a true copy or extract thereof in addition to the fees payable under paragraphs (a) and (b)..... \$1.00 .

**14. Commissioner may refuse payment undertaking**

The Commissioner of State Taxation <sup>2</sup> is not bound to accept any undertaking for the payment of duty, and may require the whole of the duty payable to be paid before a certificate is issued in accordance with Form 2 in the appendix.

**15. Commissioner may correct documents**

The Commissioner of State Taxation <sup>2</sup> may cause to be made on any completed forms, or on any accounts or returns furnished to him for the purposes of the Act, such additions, corrections, observations or directions as he thinks fit and which —

- (a) shall be made in a different coloured ink or type from the original document on which they have been made; and
- (b) shall be noted by the person making them or any of them.

**16. Offence**

A person who contravenes or fails to comply with any of the foregoing regulations is guilty of an offence.

Penalty: \$200.

**17. Master may require person's attendance**

- (1) Where probate or administration has been granted, the Master may by order under his hand, require any person to attend before him at such time and place as he may direct, for

examination on oath for obtaining information to aid any executor or administrator or Public Trustee in carrying out any of the objects of the Act.

- (2) A person upon which any such order has been served who, without lawful excuse, neglects or fails to attend before the Master in accordance with the order or who refuses to answer any questions lawfully put to him at the examination is guilty of an offence.

Penalty: \$100.

**18. No assessment for nominal accounts**

An assessment of duty is not required to be raised for any amount not exceeding \$2.

**Appendix**

**Appendix**

**Form No. 1**

FORM P.D. 8

PAGE 1

WESTERN AUSTRALIA	<b>ADMINISTRATION ACT 1903</b> <b>Statement of Assets and Liabilities</b>		FILE No.  For Office Use Only.
Name of Deceased (Use block letters)	SURNAME	OTHER NAMES	Date of Death  / /
Late of: (Address)	In the State of		Occupation:
Type of Estate	Testate or Intestate	(Strike out whichever does not apply)	
Address for Service of Notices (use block letters)			
INSTRUCTIONS — see also page 4			

I .....  
of ..... in the State of  
Western Australia ..... being duly sworn  
make oath and say as follows: —

1. That the deceased was at time of death domiciled in the State of .....
2. That the Statement of Assets and Liabilities set out in this return and the accompanying schedules Nos. .... to ..... contain a true statement of all and singular the real and personal estate of or to which the abovenamed deceased was at the time of death possessed or entitled or which is deemed to be part of the estate in accordance with the provisions of the Act and that all Statutory deductions and allowances have been claimed.
- [3. *deleted*]
4. That the deceased immediately preceding death did not hold property whatsoever as a joint tenant, — save and except that described in Schedule No. ....
5. That at the time of death the said deceased had not a general power of appointment by deed or will over any property whatsoever, — save and except that described in Schedule No. ....
6. That the deceased had not during his/her lifetime made any settlement under which he/she had any interest of any kind and such interest NOT being surrendered more than 3 years before death, — save and except that described in Schedule No. ....
7. That the deceased had not at the time of his/her death a beneficial interest in property being a beneficial interest which by virtue of a settlement or agreement made by him/her passed or accrued on or after his/her death to or devolved on or after his/her death, upon any other person, — save and except that described in Schedule No. ....

Appendix

8. That the following persons are beneficially entitled in distribution to the estate of the said deceased: (If space insufficient attach a Schedule)

Name of Beneficiary	Relationship to deceased	Dependant "Yes or No"	Date of Birth of Life Tenants/ Annuitants

Sworn by the said  
at  
in the State of Western Australia this  
day of 20  
Before me

A Commissioner of the Supreme Court of Western Australia to administer oaths.

**Appendix**

PAGE 2

**STATEMENT OF ASSETS AND LIABILITIES**

Schedules MUST show full details of type, nature and register of Assets and be supported by valuations where applicable or requested.

ASSETS	Schedule No.	Value \$	For Office Use Only
(A) W.A. ESTATE			
REAL ESTATE — attach Schedule			
PERSONAL ESTATE comprising: —			
Leasehold Estate — attach Schedule			
Rents due or accrued at date of death — attach Schedule			
Money in hand or house			
Money in Bank, Building Society, Credit Union			
Including accrued Interest — attach Schedule			
Life insurance policies and Bonuses — attach Schedule			
Debentures or similar securities, plus accrued interest — attach Schedule			
Shares in Companies plus dividends uncollected at death — attach Schedule			
Mortgages plus accrued interest — attach Schedule			
Debts due to the estate — attach Schedule			
Furniture and Household Effects — attach Schedule (see page 3)			
Watches, trinkets, jewellery, clothing and similar items — attach Schedule (see page 3)			
Motor cars, vehicles — attach Schedule			
Farming Implements, Tools, Plant and similar items — attach Schedule			
Stock in shop or business — attach Schedule			
Goodwill of Trade or business — attach Schedule			
Livestock — attach Schedule			
Crops and Fallow — attach Schedule			
Number and value of bushels in Grain Pools — attach Schedule			
Interest in Partnership — attach Schedule			
Interest in a deceased person's estate — attach Schedule			
Joint Tenancy etc., as per Affidavit — attach Schedule			
Other personal property not included above — attach Schedule			
TOTAL W.A. ESTATE			
Less Western Australian Liabilities attach schedule .....			
Funeral Allowance (as per page 3) .....			
NET TOTAL W.A. ASSETS			

Appendix

(B) EX W.A. ESTATE	REFER TO INSTRUCTION No. 5 PAGE 4	\$		
REAL — As per schedule	NET			
PERSONAL — As per schedule	NET			
NOTIONAL — As per schedule	NET			
TOTAL NET ESTATE EX. W.A.				
		TOTAL NET ESTATE		

OFFICE USE ONLY

- |                                                                                                                                                                                                               |                                                                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. I certify the final balance to be \$.....<br/><u>Asst. Commissioner (Probate Duties)</u></p> <p>2. I certify the amended final balance to be \$.....<br/><u>Asst. Commissioner (Probate Duties)</u></p> | <p>3. I certify the amended final balance to be \$.....<br/><u>Asst. Commissioner (Probate Duties)</u></p> <p>4. I certify the amended final balance to be \$.....<br/><u>Asst. Commissioner (Probate Duties)</u></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Appendix**

**ALLOWANCES**

Details to be supplied where allowance is claimed

<b>FUNERAL ALLOWANCE (Refer section 69C)</b>		<b>FURNITURE AND PERSONAL EFFECTS</b>	
Amount of Funeral Expenses	\$.....	Value as per attached schedule	\$.....
Less benefits or Other Recoups received from.....	\$.....	Less deduction section 69F	\$.....
	_____		_____
Net Claim	\$ _____	Net Claim	\$ _____

**QUICK SUCCESSION (refer section 136A)**

**OFFICE USE ONLY**

Details of Predecessor:

File No. /

- (i) Full Name.....  
Surname Other Names
- (ii) Relationship to Deceased.....
- (iii) Date of Death of Predecessor.....
- (iv) Value of Bequest Devise or Legacy received from Estate of Predecessor  
Details of Calculation of Claim (Attach Schedule if necessary) \$.....  
Less proportion of Testamentary Expenses paid \$.....  
Net Value of Claim \$ \_\_\_\_\_
- (v) Percentage Applicable:.....% of \$..... = \$ \_\_\_\_\_

**OFFICE USE ONLY**

I certify the amount (1) on which a refund is payable to be \$..... and the duty refundable to be \$..... OR (2) refundable in accordance with section 99 to be \$..... 70A Asst. Commissioner (Probate Duties)	I certify the amount (1) on which a refund is payable to be \$..... and the duty refundable to be \$..... OR (2) refundable in accordance with section 99 to be \$..... 70A Asst. Commissioner (Probate Duties)	I certify the amount (1) on which a refund is payable to be \$..... and the duty refundable to be \$..... OR (2) refundable in accordance with section 99 to be \$..... 70A Asst. Commissioner (Probate Duties)
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**OFFICE USE ONLY**

**ASSESSMENTS**

**PAYMENTS OR REFUNDS**

DATE	AMOUNT		DATE	RECEIPT No.	AMOUNT		Initial
	\$	c			\$	c	
...../...../.....			...../...../.....				
...../...../.....			...../...../.....				
...../...../.....			...../...../.....				
...../...../.....			...../...../.....				
...../...../.....			...../...../.....				

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PAGE 4 INSTRUCTIONS TO PERSONS COMPLETING RETURN

A. GENERAL INSTRUCTIONS

- (1) Care should be taken to include all the assets and liabilities of the estate as failure to include any asset or part of the estate of a deceased person renders the Administrator liable to a penalty.
- (2) *Furnish with this return* —
  - (a) A certified copy of the Will (if any) of the deceased, and all Codicils.
  - (b) A certified copy of the Death Certificate.
  - (c) A certified copy of every Settlement made by the deceased.

B. INSTRUCTIONS FOR COMPLETING STATEMENT OF ASSETS AND LIABILITIES.

- (1) Show full details of the various assets and liabilities in numbered schedules and attach schedules to the return.  
Attach valuations where applicable.

(2) *Real Estate* —

- (a) Give references to Titles and full description of each parcel.
- (b) Furnish a copy of any valuations obtained or show full details of the nature and value of all improvements.

(3) *Leasehold Estate* —

Particulars should be included in a schedule as to the term, rental, improvements, covenants and the basis of valuation, together with a copy of any valuation.

(4) *Beneficial Interest in Real Estate or Personal Property* —

Include in a schedule showing whether held as a Joint Tenant or a Tenant in Common, the value of the deceased's interest, date of creation thereof and if such date was within 3 years of the date of death, the amount contributed by each Joint Owner.

(5) *Foreign Domicile* —

(i) Personal property, wherever situated, must be shown if the deceased was domiciled in Western Australia. If the deceased was not domiciled in Western Australia the Real and Personal property in Western Australia only is to be stated in Part (A) on page 2, including debts, money and choses in action receivable or recoverable by the Administrator in Western Australia.

(ii) Show separately in Part (B) on page 2, the Real and Personal property (and any liabilities charged thereon) and Notional property in any other State or Territory of the Commonwealth of Australia or that property situated outside the Commonwealth (attach schedule showing full particulars).

(6) *Money in Bank, Building Society or Credit Union* —

State the name(s) of the Bank(s) Building Society or Credit Union in which money is held and the amount in each account (including interest to the date of death). State also the dates and periods of Fixed Deposits, the rate of interest and the amount of interest accrued to date of death.

*[(7) deleted]*

(8) Dates of Birth of Life Tenants and Annuitants and whether "dependent" (for definition of dependent refer — section 69E(3) of the Administration Act and paragraph (4) of Part IV of the Death Duties (Taxing) Act) should be included in Item 8 of page 1 or submitted in the form of an appropriate schedule.

Note: Any person making a false statement shall be liable to imprisonment for a period not exceeding 3 years and to a fine not exceeding \$200. (see section 130).

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DATE RECEIVED :

FILED BY :

*[Form 1 amended in Gazette 4 Feb 2003 p. 327.]*

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**Appendix**

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**Form 2**  
STATE TAXATION DEPARTMENT <sup>3</sup>  
WESTERN AUSTRALIA  
**PROBATE DUTIES DIVISION**

Certificate under section 119 of the *Administration Act 1903*  
I HEREBY CONSENT to registration, transfers, dealing in respect of: —

standing at date of death in the name of.....deceased.

COMMISSIONER OF STATE TAXATION      Date.....

This Certificate is of no effect unless it bears the imprint  
of the Probate Duties Division Seal

\_\_\_\_\_

**Form No. 3**

*ADMINISTRATION ACT 1903*

Return Relating to Settlement

In the matter of \_\_\_\_\_, of \_\_\_\_\_, in the State of \_\_\_\_\_,  
deceased, who died at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_,  
and

In the matter of a settlement made by \_\_\_\_\_ of \_\_\_\_\_, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I, \_\_\_\_\_, of \_\_\_\_\_, in the State of  
Western Australia, make oath and say as follows: —

(1) That \_\_\_\_\_, of \_\_\_\_\_, in the State of \_\_\_\_\_,  
executed or made the following settlements on the following dates: —

- (i)
- (ii)
- (iii)

(2) I am the trustee of the said settlements (or I am a beneficiary under the  
said settlement of \_\_\_\_\_).

(3) The said settlements are hereto annexed and marked with the letters  
respectively.

(4) Particulars of the property comprised in or disposed of by the said  
settlements, together with the value thereof are truly set out in the first part of  
the Schedule hereto.

(5) That \_\_\_\_\_ the settlor of the property comprised in or  
disposed of by the said settlements died on the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

(6) That I have set forth in the second part of the Schedule particulars or the  
property subject to the trusts or dispositions of the settlement, together with the  
names, addresses, and occupations of the several persons beneficially entitled  
under the said settlements.

(7) The following persons entitled under the said settlements were at the  
date of the death of the settlor *bona fide* residents of and domiciled in Western  
Australia: —

**Appendix**

**THE SCHEDULE**

**First Part**

Particulars of the Property comprised in or disposed of by the Settlements	Value at date of Death of Settlor or other Person on or after whose Death Trusts or Dispositions take effect

**Second Part**

Particulars of Property	Beneficiary			Value of Share	Relationship to Settlor
	Name	Address	Occupation		

Sworn at \_\_\_\_\_, in Western Australia, }  
 this \_\_\_\_\_ day of \_\_\_\_\_, 20 }  
 before me: —

A Commissioner of the Supreme Court of  
 Western Australia to administer Oaths.

I certify the amount chargeable with duty to be \$.....

ASST. COMMISSIONER (PROBATE DUTIES)

**Form No. 4**

*ADMINISTRATION ACT 1903*

Return of Succession

In the matter of a succession to certain property taking place on the death of \_\_\_\_\_, of \_\_\_\_\_, in the State of Western Australia.

I, \_\_\_\_\_, of \_\_\_\_\_, in the State of Western Australia, make oath and say as follows: —

1. That on the ..... day of .....20....., ..... became beneficially entitled in succession under a non-testamentary disposition to the following property: —

(Here set out particulars of the property and succession, according to the following heads)

Heading	Particulars of Property	Value
(a) by reason of an increase in benefit accruing to ..... by the extinction or determination of a charge, encumbrance, estate, or interest determinable by the death of ..... or at any period ascertainable by reference to the death of any person.		
(b) by reason of the death of ..... who was the joint owner with the said ..... of the property herein described.		
(c) as donee of a policy of life assurance effected by the said ..... on his life.		
(d) as recipient of the beneficial interest on a policy of life assurance effected by ..... on the life of the said deceased, the premiums on which policy were paid or partly paid by the deceased.		
(e) as the surviving person entitled to an annuity or other interest purchased or effected or partly purchased or effected by the deceased (in concert with .....).		



**Form No. 5**

*ADMINISTRATION ACT 1903*

Return of proceeds of Policies paid out by \_\_\_\_\_ for month of \_\_\_\_\_,  
20 \_\_\_\_ .

Name of Assured	Date of Death	Amount Paid \$	How Policy held*	To whom Proceeds paid, Address, and relationship to the deceased

\* State whether policy held in joint tenancy, and, if so, with whom. If the policy was transferred, state to whom transferred and the date of such transfer. Given the class of policy: — E.G. — “O.L.” — means a policy held by the deceased on his own life. “L.O.A.” — means a policy held by another person on the life of the deceased. “J.O.L.” — means a policy held by the deceased and another person jointly on his own life. “J.L.O.A.” — means a policy held jointly by other persons on the life of the deceased. “Section 94” — means a policy under the provisions of section 94 of the Life Insurance Act.

**Appendix**

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**Form No. 6**

**ADMINISTRATION ACT 1903**

(Section 139)

**RETURN OF PROCEEDS OF BANK AND BUILDING SOCIETY  
ACCOUNTS**

Paid out by ..... for Month of ..... 20.....

Name in Full of Deceased Depositor	Date of Death	Amount Paid	To Whom Proceeds Paid, Address, and Relationship to Deceased

*[Appendix amended in Gazette 4 Feb 2003 p. 327.]*



## Notes

- <sup>1</sup> This reprint is a compilation as at 7 November 2003 of the *Administration Act Regulations 1970* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>Administration Act Regulations 1970</i>	30 Dec 1970 p. 3871-9	1 Jan 1971 (see r. 2)
<i>Administration Act Amendment Regulations 2002</i>	4 Feb 2003 p. 326-7	4 Feb 2003
<b>Reprint 1: The <i>Administration Act Regulations 1970</i> as at 7 Nov 2003</b> (includes amendments listed above)		

- <sup>2</sup> Under the *Alteration of Statutory Designations Order (No. 2) 1996* a reference in any law to the Commissioner of State Taxation is read and construed as a reference to the Commissioner of State Revenue.
- <sup>3</sup> Under the *Alteration of Statutory Designations Order (No. 3) 2001* a reference in any law to the State Taxation Department is read and construed as a reference to the Department of Treasury and Finance.