
Describe the process of a person who dies testate / intestate

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A person who dies without a Will is known as dying intestate. The Personal Representative will have to apply to obtain the Letters of Administration (LA). Note that for a person who dies with a Will but with no Executor (e.g. dies, resign, disabled, missing), the process is the same for obtaining the LA but it is called Letters of Administration with Will Annexed.

The process of LA as follows:

1. Personal Representative obtain death certificate;
2. All lawful beneficiaries under intestacy choose Administrator(s);
3. All other lawful beneficiaries in writing waive the right to be Administrators;
4. Administrator(s) find 2 sureties to guarantee gross estate value for Administration Bond;
5. Administrator applies for Letters of Administration with list of assets in court;
6. Letters of Administration obtained after 1 year;
7. Administrator pays all debts and distributes remaining assets according to Intestate Succession Act. For LA with Will Annexed, the assets will be distributed according to the Will.

If a person dies with a Will, it is known as dying testate. The Executor will have to apply for Grant of Probate (GP). The process as follows:

1. Obtain death certificate;
2. Executor applies for Probate with list of assets in court;
3. Probate obtained within a few months;
4. Executor pays all debts and distributes assets according to the Will.

As it can be seen that a person dying testate is less hassle compared with dying intestate. If a Will was written, there is no need for beneficiaries to select Administrators and neither do they need to waive their rights to be one. This potentially can be a source of family conflict due to vested interest. In addition, the need to provide 2 sureties can be practically impossible. Sureties are required if there are beneficiaries who are minors and/or if the estate size exceed \$250,000. For young family with small children, this means that the surviving spouse must find two sureties with asset equal to the gross estate each. This imposed a huge burden on the surviving spouse as it is not possible to find such sureties who have everything to lose and nothing to gain. For those who are older and whose children have grown up, the gross

estate is definitely higher than \$250,000 due to property because Singaporeans are typically asset rich but cash poor. Hence, the need to find two sureties is applicable.

For those who writes a Will but whose Executors are not available to render their service, the process is equally as troublesome as those dying intestate although the distribution of assets will eventually be in accordance to the Will. Hence, it is important to have substitute Executors who are likely to be alive, locatable and willing to perform the job. An Executor can resign from the job as appointing them as Executor in the Will does not contractually bind them to render this service. My recommendation is that the main Executor can be a trusted family member but have a Trust company to be the substitute Executor since a company never dies. The advantage of doing this is that:

1. If in the event, the death of the testator is too overwhelming, the main Executor can resign and permit the substitute Executor to perform the job;
2. If in the event the main Executor dies or disabled, the substitute Executor will automatically be the Executor.