

RedCrest-Probate

Terms of Use

Introduction

1. RedCrest-Probate is an online digital service run by Court Services Victoria (**CSV**) ('we', 'us', 'our'), in support of the Supreme Court of Victoria (**the Court**).
2. RedCrest-Probate enables users ('you', 'your') to electronically:
 - a) draft and file a notice of intention to apply for a grant of representation in accordance with the *Supreme Court (Administration and Probate) Rules*;
 - b) search for and view a notice of intention to apply;
 - c) draft and file proceedings for a grant of representation made in accordance with the *Supreme Court (Administration and Probate) Rules*;
 - d) file subsequent documents for proceedings commenced pursuant to the *Supreme Court (Administration and Probate) Rules*;
 - e) file a caveat pursuant to the *Administration and Probate Act 1958* and the *Supreme Court (Administration and Probate) Rules*;
 - f) deposit a will for safekeeping by the Registrar of Probates in accordance with the *Administration and Probate Act 1958*;
 - g) search for and view a copy of a grant of representation issued by the Supreme Court of Victoria on entry of the unique identifier; and
 - h) request access to and view documents filed in proceedings made pursuant to the *Supreme Court (Administration and Probate) Rules*.
3. You do not need a RedCrest-Probate account to:
 - a) search for and view a notice of intention to apply; and
 - b) search for and view a copy of a grant of representation issued by the Supreme Court of Victoria on entry of the unique identifier.

Acceptance of Agreement

4. By using RedCrest-Probate, you indicate that you have read, understood and accepted the RedCrest-Probate Terms of Use, which include the Privacy Statement applicable to RedCrest-Probate (**Agreement**), and you agree that you are bound by all of the terms and conditions contained herein.

5. To have a RedCrest-Probate user account, you must be a 'natural person.' Being a 'natural person' means you are an individual human being, not a corporate entity, a robot, a software program and the like.
6. If you include both your name and the name of the law practice or other organisation that you represent in your user registration, you agree that you are bound to the terms of this Agreement in your own right and on behalf of your organisation. If you do not include the name of an organisation in your user registration, then the terms of this Agreement apply to you in your own right.
7. If you include both your name and the name of your organisation in your user registration, you are referred to in this Agreement as an "**organisational user**" and:
 - a) you represent that you have the authority to bind your organisation and that your organisation is a body capable of entering into this Agreement; and
 - b) your acts and omissions will be taken as the acts or omissions of your organisation.
8. You will only be issued with a RedCrest-Probate username and password if you accept this Agreement.
9. If you do not accept the terms and conditions of this Agreement, you must immediately stop using RedCrest-Probate.
10. The terms and conditions of this Agreement will prevail over any inconsistent provisions in the RedCrest terms of use or the Supreme Court of Victoria website privacy policy.

Downloadable Documents

11. We make available downloadable documents, on the conditions set out below. If you do not agree with these conditions, you should not download the material.
12. The following conditions apply to downloadable documents:
 - a) downloadable material available on our services is provided on the basis that, upon downloading, you will conduct such virus scanning and other checks as may be necessary to ensure that the downloaded material will not in any way corrupt your data, software or systems or those of any other person;
 - b) you acknowledge and agree that we will not be liable to you for any loss or damage, including consequential loss or damage however caused,

whether by negligence or otherwise, that arises in any way from the use of the downloaded material; and

- c) If you provide the downloaded material to another party, then you should bring to the attention of that other party these conditions and only provide the downloaded material on the same conditions as those on which the original downloaded material was provided to you by us via RedCrest-Probate.

Court File Searches - Limitations

13. Results for Court File Search requests made through RedCrest-Probate are subject to any limitations specified in the “request for search” workflow.
14. Court File Search requests through RedCrest-Probate are subject to the following conditions:
 - a) If we provide you with the ability to inspect documents, your access to those documents does not displace any legal restrictions that apply to the use, publication or disclosure of information the documents contain.
 - b) We may impose conditions on your inspection of documents, including requiring their use to be limited to the reasons you have given for seeking access, and may advise you of any conditions or limitations in relation to the documents that are made available to you.

RedCrest-Probate user registration

15. Individuals, employees and officers of law firms, members of legal teams, sole practitioners and other employees and officers of organisations and agencies may use RedCrest-Probate in accordance with the terms of this Agreement.
16. We may request verification of your identity at any time in connection with your access to RedCrest-Probate and you agree that your access may be suspended if you do not provide the requested information.
17. You consent to us using the email address you have provided so you can receive emails and notifications from the Court in relation to your use of RedCrest-Probate.
18. RedCrest-Probate users are responsible for managing their own RedCrest-Probate user account and must use reasonable endeavours to maintain the security of their account.
19. RedCrest-Probate users must not impersonate any person or entity for the purpose of misleading others when accessing or using RedCrest-Probate.

RedCrest-Probate user

20. You agree to use our services in accordance with all applicable laws, regulations and court rules of the Court, and any applicable court orders, and you are solely responsible for ensuring that your use conforms to such laws, regulations, rules and court orders.
21. Information and documents in RedCrest-Probate, and downloaded from RedCrest-Probate, remain subject to prohibitions on publication. These include (and are not limited to) s 534 of the *Children, Youth and Families Act 2005* (Vic), ss 166-169 of the *Family Violence Protection Act 2008*, ss 123-125A of the *Personal Safety Intervention Orders Act 2010* (Vic), ss 3-4 of the *Judicial Proceedings Reports Act 1958* and suppression orders made under the *Open Courts Act 2013* (Vic). You must comply with all statutory provisions/applicable court orders when accessing and using any materials in RedCrest-Probate.
22. You must comply with any applicable confidentiality or non-disclosure obligations and relevant laws relating to the collection, use and disclosure of information in or obtained from RedCrest-Probate. You acknowledge and agree that this is your responsibility.
23. You acknowledge that there may be serious consequences of breaching the terms of this Agreement, including suspension of your access to RedCrest-Probate, civil and criminal liability and (if relevant) referral to professional disciplinary bodies.
24. As a RedCrest-Probate user, it is important that you understand your responsibilities when using RedCrest-Probate.
25. You are responsible for:
 - a) ensuring that you comply with all laws when using RedCrest-Probate;
 - b) ensuring the security and confidentiality of your account credentials, including passwords, is maintained and they are not disclosed or provided to any other person, unless you are an organisational user, in which case you may disclose your account details only as permitted by this Agreement;
 - c) ensuring you do not access another user's RedCrest-Probate account, with or without their consent, unless expressly permitted by this Agreement;
 - d) keeping the information you provide (including your email address) current, complete and accurate;
 - e) if your personal information changes, signing into your RedCrest-Probate account and updating your details as soon as possible.
 - f) logging off from your RedCrest-Probate account; and

- g) promptly reporting any suspicious or unauthorised conduct concerning your account.
26. If you are an organisational user, you may share your account credentials solely with another user from your organisation, provided that user has a RedCrest-Probate account and has accepted the terms of this Agreement.
 27. You acknowledge and agree that we will not be responsible for any information inaccurately sent, or not received, as a result of your personal information not being updated in RedCrest-Probate.
 28. If you have reason to believe that your personal information is at risk (either by direct or indirect breach), please contact us immediately at redcrest-probate@supcourt.vic.gov.au
 29. As a RedCrest-Probate user, if your account is breached and reasonable steps and precautions have not been taken by you to keep your personal information safe, you indemnify us against any liability, losses, damages, costs and expenses arising out of or in connection with the breach.
 30. A breach in your RedCrest-Probate user responsibilities may result in your account access being suspended.

Disclaimer

31. Except as provided by law, the services and RedCrest-Probate are provided "as is" and without any warranties, express or implied, including, without limitation, as to its fitness for a particular purpose.
32. You acknowledge that the internet is subject to inherent security risks, and we do not take responsibility for abnormal operation, data loss, privacy breaches or other loss or damage resulting from cyber-attack, hacker attack, viruses, malware, trojan horses, worms, time bombs or other internet security risks. However, we will provide reasonable technical support for use of RedCrest-Probate if required. Technical Support for RedCrest-Probate is provided by emailing redcrest-probate@supcourt.vic.gov.au.
33. Your use of our services and RedCrest-Probate, is at your own risk.
34. We do not warrant, guarantee, or make any representation that:
 - a) access to or use of RedCrest-Probate by you or any user will be secure, continuous or timely;
 - b) RedCrest-Probate or the servers that make the site available on the internet are free from software viruses;

- c) the functionality contained in RedCrest-Probate will operate uninterrupted or error-free; or
 - d) errors and defects in RedCrest-Probate will be able to be corrected.
35. To the maximum extent permitted by law, we will not be liable to you for any special, consequential, incidental, direct or indirect damages, whether based on breach of contract, tort (including negligence), strict liability, product liability or otherwise, in connection with your use of our services. Such damages include, but are not limited to, damages for loss or denial of opportunity, loss of business revenue or profits, business interruption, loss of data, loss of use, corruption of systems or loss of documentation.
36. To the maximum extent permitted by law, you are responsible for all actions, liabilities, claims (including third party claims), loss, damages, proceedings, expenses (including, but not limited to, legal costs) suffered or incurred by us, or by any of the judicial officers of the Court, or by our employees, consultants, licensors, suppliers or agents, arising from, or which are directly or indirectly related to:
- a) your use of RedCrest-Probate or other services made available by us to you;
 - b) any breach or non-observance by you of any of the terms of this Agreement;
 - c) a disclosure of confidential information by you; or
 - d) a breach of the privacy obligations in this Agreement, or any applicable privacy laws, by you.
37. Our services may be accessed throughout Australia and overseas. We make no representation that the content of our services complies with the laws (including intellectual property laws) of any jurisdiction outside Victoria. If you access our services from outside Australia, you do so at your own risk and are responsible for ensuring compliance with all laws of the jurisdiction in which you are located.

Intellectual property rights

38. RedCrest-Probate and all of its data, contents, features and functionality (including but not limited to all information, software, text, displays, images, video, audio and the design, selection and arrangement thereof) are owned by us, the State of Victoria, our licensors or other providers of such material, and are consequently protected by relevant copyright laws.
39. You acknowledge and agree that, other than as specifically permitted by this Agreement, you obtain no rights with respect to:

- a) any images, photographs or branding on RedCrest-Probate, including the Supreme Court of Victoria logo; or
 - b) any content supplied by third parties, whose permission may be required if you wish to use that material.
40. You are responsible for any loss or damage that arises from a claim concerning your use of any information, document or material accessed by you through RedCrest-Probate and/or any Red-Crest Probate related information, document or material which infringes any third party intellectual property or other rights. Your responsibility for loss or damage under this clause is reduced to the extent to which any such loss or damage was caused by any wilful, unlawful or negligent act or omission by us.

Changes to this Agreement

41. We may revise all or any part of this Agreement from time to time.
42. We may also vary the functionality or operation of RedCrest-Probate.
43. Revisions will not be retroactive and may be made to better reflect:
- c) legislative changes;
 - d) new regulatory requirements and/or
 - e) improvements or enhancements to services.
44. By continuing to access or use RedCrest-Probate after such revisions are communicated to you (which may be through RedCrest-Probate, by email or other electronic communication), you are taken to have read, understood and agreed to be bound by the revised terms of this Agreement from the date on which you first access or use our service after we have communicated the revisions to this Agreement to you.
45. The onus is on you to review revisions to this Agreement we send to you.
46. If you do not accept the revised terms of this Agreement, you must immediately stop using RedCrest-Probate.

Eligibility, suspension, or termination

47. A RedCrest-Probate user account is not an automatic right.
48. We may suspend or terminate your RedCrest-Probate user account, at any time, without notice, for any of the following reasons:
- a) your breach of this Agreement;

- b) your breach of any applicable law, policy or subordinate legislative instrument;
 - c) your use of our services in a manner that would cause us legal liability;
 - d) your use of our services in a way that infringes upon a natural person's rights or prevents them from using our services;
 - e) we determine, in our sole discretion, that you do not intend to, or are unable to, comply with the terms of this Agreement; or
 - f) your user account is inactive for a period of twelve months or more.
49. If your access to RedCrest-Probate is suspended or terminated, all restrictions and obligations on you, and all disclaimers, exclusions and limitations of liability set out in this Agreement will survive such suspension or termination.
50. If you consider that your access to RedCrest-Probate has been suspended or terminated incorrectly, please contact redcrest-probate@supcourt.vic.gov.au.
51. If you want to terminate your RedCrest-Probate user account, you may do so by providing written notice, which may be given by email to redcrest-probate@supcourt.vic.gov.au. We will endeavour to action the termination of your access to RedCrest-Probate within 14 days.
52. The use of software, including bots, scraper tools and the like with a view to monitor, make unsolicited copies or inappropriately access RedCrest-Probate or its contents is strictly prohibited.

Payments

53. You agree to pay fees (if any) prescribed by the *Supreme Court (Fees) Regulations 2018*.
54. You acknowledge and agree that we:
- a) use third-party payment providers to process payments through RedCrest-Probate; and
 - b) do not make any representations, warranties or guarantees in relation to payments processed through RedCrest-Probate.

Applicable law

55. By accessing RedCrest-Probate, you agree that this Agreement is governed by the laws of Victoria and that any disputes are to be determined by the courts having jurisdiction in the State of Victoria pursuant to the laws of the State of

Victoria (except any principle of conflict of laws inconsistent with this requirement).

Privacy Statement

56. We collect your personal information (such as your name and email address) in order to allow you access to RedCrest-Probate. We also collect information to enable us to prepare documents in support of your application and process payments via the system or we may collect financial information or your health information in order to consider a fee waiver.
57. If you do not provide this information, you may not be able to use, or fully use, RedCrest-Probate.
58. When you file a notice of intention to apply for a grant of representation or to reseal a grant or a notice of intention to administer the estate pursuant to s 79 of the *Administration and Probate Act 1958*, the information contained in the notice will be made available to the public to view via RedCrest-Probate. Data that will appear on RedCrest-Probate includes:
 - a) The name, address and date of death of the deceased;
 - b) The name of the person(s) intending to make the application and the name of their legal representative, if any; and
 - c) The email address of the account used to publish the notice of intention.
59. When you file an application for a grant of representation the following details will appear in a database available to the public on the Court's website:
 - a) The name and date of death of the deceased;
 - b) The type of application that has been filed;
 - c) The date the application was filed;
 - d) The application number; and
 - e) The status of the application and the date that status was updated.
60. If an application for probate or administration is granted, the grant of representation issued, including the will (if any), will be available to view on RedCrest-Probate to anyone who has the relevant proceeding number and unique identifier.
61. Any application for probate or administration filed with the Court may be made available to search, by any member of the public, on payment of a fee. Any document filed in support of an application may also be made available to search.

62. Data and documents for finalised applications are transferred to the Public Record Office of Victoria, generally on an annual basis.
63. RedCrest-Probate collects, processes and stores information used by the Court in proceedings which may include personal or health information. Proceedings are regulated by the Court's rules and legislation.
64. Your personal and health information and any other information you provide will be dealt with in accordance with the provisions of the *Privacy and Data Protection Act 2014* and *Health Records Act 2001*, as relevant, except to the extent that the Court is exempt from the requirements of these Acts.
65. Section 10 of the *Privacy and Data Protection Act 2014* and section 14 of the *Health Records Act 2001* respectively exempts the Court from complying with this legislation in relation to its judicial or quasi-judicial functions.
66. We collect information you provide to us on RedCrest-Probate on any electronic forms or documents you submit.
67. In some cases, we may collect your information indirectly. This may occur if another person includes your information in one of our electronic forms.
68. We may collect and use information about your use of RedCrest-Probate, such as your IP address, the date and time of your visit, the address of your server, data about your interaction with RedCrest-Probate, your device information and geological information, as well as data collected from cookies and similar technologies. This information is collected at an aggregate level and we will not use it to identify you. However, we may do so if we are required to investigate and mitigate a cybersecurity threat or an attempt to interfere with the use of RedCrest-Probate by other users, to cooperate with law enforcement authorities or to comply with the law.
69. Cookies are small files that are transferred to your web browser when you visit a website. These files contain certain pieces of information that help you navigate the website efficiently. Cookies are used to save information about your interaction with RedCrest-Probate. For example, your login details, preferences, and how and when you use RedCrest-Probate. RedCrest-Probate uses session cookies which are stored in temporary memory and are not retained after you close the browser session. If you do not want to have cookies placed on your computer, you can disable them using your web browser. However, options out of cookies may affect some of the functionality of RedCrest-Probate.
70. Any information submitted or collected is captured and maintained in secure data and information management systems.

71. We may disclose your personal or health information to third parties who provide us with (or help us provide) products and services (e.g. to financial services providers to process payments and to IT providers to administer and maintain RedCrest-Probate), including to provide access to service providers located overseas.
72. We will not disclose any details to any other third parties without your consent unless it is provided for in this Agreement or is required by law.
73. You can seek access to, or seek to correct, the personal information we hold about you, or complain about a privacy breach, by contacting us at redcrest-probate@supcourt.vic.gov.au.