



Partner & Solicitor

PROBATE

the facts and process explained

BY KATHERINE MILLMAN

Obtaining the Grant

- When a person dies, if their assets and possessions exceed £5,000, then it is necessary to apply to the Probate Registry for a formal Grant to administer the estate. If the deceased left a Will then the executors appointed are the persons entitled to apply for a Grant of Probate. If there is no Will then the law specifies the person/s who are entitled to apply for a Grant of Letter of Administration.
- To obtain a Grant to the estate then all the assets owned by the deceased must be scheduled and valued.
- An Inland Revenue return must be completed with details of all the assets and their values.
- If Inheritance Tax is due this must be paid to the HMRC Capital Taxes office before the Grant can be obtained.
- Once the Inheritance Tax forms are signed and any tax due has been paid the application can be lodged with the Probate Registry online for the issue of the Grant.
- A Statement of Truth must be signed by the Executors or the Personal Administrators.

After the Grant

- The Grant once issued is the document giving the Executors or Personal Representatives the authority to collect in the assets, pay the debts and expenses and distribute the Estate in accordance with the Will or rules of Intestacy.
- The Deceased's assets must be collected in. This usually means closing bank and building society accounts and selling any investments or property.
- An income tax return may need to be completed:
(1) for the period from 5th April to the date of death
(2) for the administration period
- All known debts of the estate, legal fees, valuation fees and administration expenses must be paid before the payment of any legacies or distribution of the residue. For the protection of the Executors/ Personal Representatives in respect of any unknown debts an appropriately worded advertisement should in all cases be put in a local newspaper and the London Gazette. Creditors must then within 2 months give notice of any debts or money owed after which the E/PRs will not be personally responsible for nonpayment.
- All the beneficiaries must be formally identified. Executors/ PR's should not pay any legacy or share of residue to a beneficiary who is bankrupt or where bankruptcy proceedings are pending. In all cases a bankruptcy search is recommended. Where Howard & Over are the executors a bankruptcy search will be made in respect of the beneficiaries in all cases.
- Claims against the estate under the Inheritance Provision for Family and Dependents Act 1975 can be made up to 6 months from the date of the Grant. Executors/PR's can be personally liable if the estate has been distributed and insufficient assets remain to meet such claims. We therefore recommend that no money is distributed to beneficiaries until the 6 months has elapsed.
- An estate account will then be prepared scheduling all the assets collected in by the Executors/Personal Representatives and the payments made to settle debts funeral and testamentary expenses.
- After payment of any legacies the residue can then be distributed.

Please contact Howard & Over if you wish to discuss the contents of this factsheet in more detail.

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