



How to obtain probate

A guide for the applicant acting without a solicitor

The Probate Service

PA2 - w3

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This booklet is produced to help you obtain probate if you have decided not to employ a solicitor.

If you make a personal application for a Grant of Probate you will be required to attend an appointment at one of our interview venues.

Important

Please read through this booklet carefully before you start to complete the enclosed application forms. The following information will help you decide whether you need probate and to fill in the forms if you do. It should answer most of your queries about probate. If you have any difficulties completing the forms or need further guidance please contact your local Probate Registry. The staff are there to help you – but they are unable to give you legal advice. Applying for probate yourself is a fairly straightforward procedure in most cases.

The information in this booklet refers only to the law in England and Wales. If the deceased was permanently resident outside England and Wales another system of law may apply – this will be explained when we receive your application.

If you need to apply for a Grant of Representation in Scotland or Northern Ireland, you should contact the court in the appropriate country.

What is Probate?

When a person dies somebody has to deal with their estate (the money property and possessions left) by collecting in all the money, paying any debts and distributing what is left to those people entitled to it. In order to get authority to do this they usually need to obtain a legal document called a **Grant of Representation** from the Probate Registry.

There are three types of Grant of Representation.

1 *Probate*

Issued to one or more executors named in the deceased's Will.

Note: Executors are people named in the Will to deal with the estate.

2 *Letters of Administration (With Will)*

Issued when there is a Will but there is no executor named or when the executors are unable or unwilling to apply for the grant.

3 *Letters of Administration*

Issued when the deceased has not made a Will, or any Will made is not valid.

Throughout this booklet the term "**grant**" will be used to mean whichever type of Grant of Representation you may need.

Why is a grant necessary?

Organisations holding money in the deceased's name need to know to whom that money should be paid and the grant is proof that the person named in it may collect the money.

When a person dies the estate left passes to the people named in his or her Will. If there is no valid Will it passes to his or her next of kin.

The distribution of the estate is the responsibility of the person named in the grant.

Is a grant always needed?

Sometimes a grant is not required and you should ask anyone holding the deceased's money whether they will release it to you without seeing a grant. If they agree they may attach conditions such as asking you to sign a statutory declaration before a solicitor. It is for you to decide whether it is cheaper or easier to do this than to apply for a grant.

A grant **may** not be required in the following cases:

- If the estate is small some organisations such as insurance companies and building societies may release the money to you at their discretion.

- If the whole of the estate is held in joint names and passes automatically to the surviving joint owner. If you are in doubt on this point you may need to ask a solicitor whether a grant is needed to change the ownership of an asset.

Note: A grant will **always** be required to sell or transfer a property held in the deceased's sole name.

Important

Do not advertise any house for sale too soon after the owner's death, as a sale cannot be completed until you have obtained the grant. The date of the issue of the grant cannot be guaranteed to coincide with the final stages of any sale.

Am I entitled to a grant?

There are rules which govern who may be given a grant.

The following points are a brief guide for you:

- If there is a Will with named executors they are the first people entitled to a grant.
- If there are no executors or the executors are unable or unwilling to apply, the next person entitled to a grant is any person named in the Will to whom the estate or remainder of it, after gifts have been paid, has been given.

- If the deceased has not made a Will, application for a grant should normally be made by his or her next of kin in the following order of priority:

- 1 Lawful husband or wife
(Note: Common-law partners have no entitlement to a grant)
- 2 Sons or daughters (excluding step-children)*
- 3 Parents
- 4 Brothers or sisters*
- 5 Grandparents
- 6 Uncles or aunts*.

* Or if any have died in the lifetime of the deceased then their children may apply

Note: A grant cannot be issued to any person under the age of 18.

If you are not sure whether you are entitled to apply you should still complete and return the forms and we will let you know. If you are a distant relative please supply a brief family tree showing your relationship to the deceased.

When more than one person is entitled to a grant they may all obtain a grant together. However, a maximum of four applicants is allowed and all applicants will have to attend an interview.

In most cases only one person needs to obtain the grant but there are circumstances when it may be necessary for two people to do this, e.g. if anyone entitled to the estate is under the age of 18. If this is the case we will let you know as soon as possible after we have received your application.

Although the Probate Registry needs to account for all the executors named in a Will they do not all have to apply for probate. The other executor(s) may either renounce all their rights to probate or they may reserve the right to apply for probate should it become necessary in the future ("power reserved"). The "power reserved" option is the most common one and is used, for example, when the executors live in different parts of the country or it is not convenient for one of them to attend the interview due to work commitments. Only the executor(s) who attend the interview will be named on the grant and then only their signature will be required to release the assets. Please ask any executors who do not wish to apply which option they prefer and complete their details on form PA1. We will send you the relevant form for them to sign once we have checked your application

If the person who is entitled to the grant does not wish to apply, they may appoint someone else to be their attorney to obtain the grant on their behalf. If this is the case you should complete their details on form PA1 (Section C). We will send you a form for them to sign after we receive your application.

If it is not possible to issue a grant to you, we will explain the reasons.

Will there be any tax to pay as a result of the death?

The tax on the estate of a person who has died is called **Inheritance Tax**. It is dealt with by Inland Revenue (Capital Taxes). It only applies to a very small percentage of estates. If Inheritance Tax is due, you normally have to pay at least some of the tax before we can issue the grant.

The issue of the grant does not mean that Inland Revenue (Capital Taxes) have agreed the final Inheritance Tax liability. They will usually contact you again after you have received the grant. Subject to the requirement to pay some of the tax before obtaining the grant, Inheritance Tax is due six months after the end of the month in which the person died. Inland Revenue (Capital Taxes) will charge interest on unpaid tax from this due date whatever the reason for late payment.

Probate Registry staff are **not** trained to deal with queries about Inland Revenue forms or Inheritance Tax. If you have any queries about the figures in the estate or Inheritance Tax generally, you should contact the Inland Revenue (Capital Taxes) Helpline on 0845 3020900. Their address is Ferrers House, PO Box 38, Castle Meadow Road, Nottingham NG2 1BB.

Note: If you are applying at Newcastle, Middlesbrough, Carlisle or York Probate Registries, you should contact the Capital Taxes helpline at Edinburgh on 0131 777 4050 or 4060. Their address is Meldrum House, 15 Drumsheugh Gardens, Edinburgh EH3 7UG.

How do I apply for a grant?

The four stages to apply for a grant are set out below:

I Obtaining the forms

The following forms will either have been enclosed with this booklet or may be obtained from your nearest Probate Registry (see enclosed list (PA4)).

- *The Probate Application form (PA1) and PA1a*
Forms PA1 and PA1a can also be downloaded from our website (www.courtservice.gov.uk). The PA1 is an interactive form and can be filled in on screen.

The PA1 asks for details of the deceased and the applicant(s).

- *Account of the estate (IHT205 (yellow form) and instruction booklet IHT206)*
IHT205 and 206 can also be downloaded from the Inland Revenue (Capital Taxes) website (www.inlandrevenue.gov.uk/cto/pa1.htm).

This form asks you to give details of the deceased's estate at the date of death. You should try to find out the full value of all items identified, including any interest or bonus which will be paid. However, reasonable estimates are acceptable and should be marked "estimated". The full market value of any house owned by the deceased should be shown although a professional valuation is not normally required. The value of household goods, jewellery and belongings should be shown as the amount for which they could be sold, not their value for insurance purposes. Please refer to the IHT206 for further guidance.

Form IHT205 is applicable in most cases but if it does not apply in your case you will need to complete a full Inland Revenue Account (form IHT200). You can order this from Inland Revenue (Capital Taxes) on 0845 234 1020 (answerphone service). Alternatively it can be downloaded from www.inlandrevenue.gov.uk/cto/forms4.htm on the Internet. They will send you a pack including form IHT200 and form D18 (Probate Summary). In these cases you have the option of assessing any tax due yourself or asking the Inland Revenue (Capital Taxes) to do it for you. You should follow the instructions you receive from the Inland Revenue regarding IHT200 and send the completed D18 to us with your application. Do **not** send IHT200 to the Probate Registry.

If you have any queries regarding the completion of form IHT200 you should telephone the Inland Revenue (Capital Taxes) Helpline on 0845 3020900 or 0131 777 4050 / 4060.

2 Completing the forms

You should complete the relevant forms fully and tick the checklist on form PA1 to confirm that you have enclosed all the necessary paperwork and accompanying documents. Please refer to the Guidance Notes on PA1 (PA1a) and to the IHT206 booklet to assist you.

3 Returning the forms

You must send the completed forms (i.e. PA1, IHT205 or D18) together with a cheque for the fee payable (see fee list enclosed) and accompanying documents **to** the Probate Registry which controls the venue at which you wish to be interviewed. A list of addresses is enclosed (PA4). **Please note** – you should **not** send any correspondence to any of the local Probate interview venues as they are operated on an appointment only basis and opening times vary. You can choose to be interviewed at either a controlling Probate Registry or at one of the other interview venues.

When you return the forms PA1 and **either** IHT205 or D18 you should also send the following:

- An official copy of the death certificate issued by the Registrar of Births Deaths and Marriages or a Coroner's certificate. Please do **not** send a photocopy of this document.
- The **original** Will and any codicils (or any document in which the deceased expresses any wishes about the distribution of his or her estate). The original Will may be held at a solicitor's office or a bank or it may be amongst the deceased's possessions. You should make a thorough search for it and if you cannot find it you should contact your local Probate Registry. A Will may be lodged for safe-keeping at the Principal Probate Registry in London. If this is the case it will be identified when your application is examined. If you do not send the **original** Will, your application will be delayed.

We strongly advise you to make and keep a copy of any Will or codicil you send us and to send the original document(s) by recorded or guaranteed delivery together with your application forms. Please do not attach anything to the Will by staple, pin etc. or remove any fastenings from the Will.

- Any other documents specifically requested in form PA1 e.g. decree absolute.
- A cheque for the fee made payable to H.M. Paymaster General for the correct amount due (including the cost of the number of official copy grants you require). **Please refer to the enclosed fee list (PA3).**

When we receive your application we will examine it and contact you if there are any difficulties. If your application is complicated there may be additional documents to be signed or you may be asked to contact other people (for example a witness to a Will) so that we can interview them or obtain their signatures to documents to assist with your application.

If there are no problems we will, within approximately 10 working days from the date of receipt of your application, send you a letter giving you an appointment for interview at the location you have chosen. If you want us to acknowledge your application, please send a stamped addressed envelope.

4 Attending the appointment for interview

The purpose of the appointment is to confirm the details that you have given on the forms and to answer any queries you **or we** may have.

You will receive further information about the interview with your appointment letter but basically you will be asked to sign a form of oath and to swear or affirm before the interviewing officer that the information you have given is true to the best of your knowledge. The interview should last no more than ten to fifteen minutes. Each applicant will be required to bring proof of identification to the interview.

In most cases only one appointment is required.

If you are applying for a grant with someone else who is unable to attend for interview at the place you have chosen, arrangements may be made for them to attend at a different interview venue (see PA4). However this will mean that the issue of your grant will take longer.

When will I be interviewed?

No appointment can be given until your application has been examined and any queries resolved. You will then be given the earliest available date at the interview venue you have chosen. It is difficult to say how soon you will be interviewed as the number of applications waiting to be dealt with varies but, in straightforward cases, the appointment will usually take place within a month of your application being received. You will usually be able to get an earlier appointment at one of the controlling Probate Registries if required.

If we are unable to send you a notice of appointment within 10 working days of receiving your application you will normally be sent an acknowledgement of your application.

Applying for the grant when form IHT200 required

To fill in form IHT200, you should follow the guidance provided by the Inland Revenue (Capital Taxes). You will also need to fill in supplementary page D18 (Probate Summary). When you have finished filling in the forms, you can choose whether to work out the Inheritance Tax for yourself or you can ask the Inland Revenue (Capital Taxes) to do it for you. Then follow the appropriate paragraph below.

■ If you want the Inland Revenue (Capital Taxes) to work out the tax for you

When you are ready to apply for the grant, you should send form PA1, the other documents needed (see page 6) and form D18 (*but **not** the form IHT200 itself*) to the Probate Registry. After your interview, the form D18 will be given back to you with Section A completed. You should then send form IHT200, the supplementary pages and the form D18 to the Inland Revenue (Capital Taxes) who will tell you what to do next.

- **If you have worked out that there is some Inheritance Tax to pay**

Fill in Sections B and C of form D18 by copying the details from form IHT200. Then, when you are ready to apply for the grant, you should send form PA1, the other documents needed (see page 6) and form D18 (*but **not** the form IHT200 itself*) to the Probate Registry. After your interview, form D18 will be given back to you with Section A completed. You should then send form IHT200, the relevant supplementary pages, the form D18 and your payment to the Inland Revenue (Capital Taxes). Provided you have paid the right amount of tax, the Inland Revenue (Capital Taxes) will endorse form D18 and return it direct to the Probate Registry, who will then issue the grant.

- **If you have worked out that there is no Inheritance Tax to pay**

Fill in Sections B and C of form D18 by copying the details from form IHT200. Then, when you are ready to apply for the grant, you should send form PA1, the other documents needed (see page 6) and form D18 to the Probate Registry. *At the same time*, send form IHT200 and the other supplementary pages to the Inland Revenue (Capital Taxes). The grant will be sent to you after your interview.

How much will it cost to obtain a grant?

Please refer to the enclosed fee list (PA3).

Before submitting your application you should work out the fee payable and decide how many official copies of the grant you would like. Then send a cheque, made payable to **H.M. Paymaster General** for the correct amount with your application, i.e. the total of your application fee and the fee for each copy of the grant. Your application will **not** be processed until the fee has been paid.

The number of official (i.e. sealed) copies you may require will depend on how many organisations need to see the grant and how quickly you wish to deal with the estate.

Unsealed photocopies of the grant are **not** valid and most organisations will not accept them. If there are any assets held outside England and Wales you may require a special copy of the grant – usually referred to as a sealed and certified copy. You should check this with the organisation holding the asset and order the appropriate number of copies at the time of your application.

What happens after the appointment for interview?

After your appointment the grant will be prepared by the Probate Registry and sent to you by post with any copies you have ordered.

The interviewing officer should be able to give you an estimate of how long this will take.

When you receive the grant you can show it to any person or organisation holding the deceased's money or property in order that the asset can be released, sold or transferred. You may however, be asked to provide an official copy of the grant before this can be done. If you need to order further copies of the grant after it has issued you should write to the Probate Registry which issued the grant, but please note that the copies will be more expensive than those ordered at the time of application (see PA3).

Please note that the responsibility of the Probate Registry ends when the grant is issued. We are unable to assist you in dealing with the estate after that. If you have any problems in administering the estate you should seek legal advice.

We seek to provide a high level of customer service. If you have any comments about the service you have received or suggestions on how it could be improved, please contact your local Probate Registry.

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