What is it and do I need it?

Probate

YOUR QUESTIONS... ANSWERED

Specialists in:
PERSONAL INJURY  EMPLOYMENT  MOTOR  CONVEYANCING  WILLS & PROBATE
WHEN IS THIS REQUIRED?

On death before your assets can be liquidated and passed onto those you have nominated as your beneficiaries in your Will, your executors need to obtain a Grant of Probate. If you don’t have a Will you are said to have died Intestate and your next of kin would then apply for Letters of Administration to enable your assets to be distributed under the Rules of Intestacy. Your Executors or Administrator, in an Intestacy, will then be able to liquidate the assets, pay any debts you owe and then distribute your estate. The only exception is if the assets in your estate have a value of less than £30,000 and do not include any real estate, ie. houses or land, these assets can normally be liquidated by your Executor or Administrator providing an Indemnity to the Bank or organisation where the assets are held.

It is your Executor’s or Administrator’s duty to notify potential beneficiaries of their entitlement under the Will or the Intestacy Rules.

STEPS TO OBTAINING PROBATE

The assets in your estate need to be quantified and details of them included in a return to the Revenue, if inheritance tax is not payable this is an IHT205 form. If you are appointing a solicitor to obtain Probate they send this form to the Probate Registry along with a Statement of Truth signed by your Executor or Administrator confirming their authority to apply for Probate or Letters of Administrator and a brief summary of the assets in the Estate. If you have made a Will this is also submitted with the application. A similar process applies if you die Intestate.

The current fee payable to the Probate Registry is £155.
If you decide not to engage a solicitor an application for Probate can be made by the Executor or Next of Kin. This person can make a personal application either by an appointment with your local Probate Registry or online. In addition to the Will, the Probate Registry will require you to provide the information that a solicitor would be submitting. This would include a copy of the death or Coroner’s certificate and the fee. If the estate is over £5,000 the Probate Registry charge a fee of £215 for the service, however if the estate is below £5,000 there is no fee.

If Inheritance Tax (IHT) is payable on the estate additional information is required by the Inland Revenue. An IHT400 form must be submitted together with professional valuations of the assets in the estate. Any IHT owed must be paid within 6 months of the date of death to avoid interest being charged.

If the estate comprises monies in banks or building societies, payment can be made directly to the Inland Revenue from such accounts to discharge the IHT payable. If there are insufficient funds in such accounts and the estate comprises mainly land or property, there is a concession that the IHT can be paid by instalments. This is with the provision that it can be paid by up to 10 annual instalments until the property is sold at which point the IHT together with interest (currently 3.25%) will be payable.

On approval of the IHT400 and payment of IHT made or provided for under the instalment option they will issue a receipt which is sent to the Probate Registry with the application for Probate. The calculation of IHT can be complicated and it is recommended that professional advice is sought.

**WHAT ARE YOUR EXECUTORS OR ADMINISTRATOR’S OBLIGATIONS AFTER PROBATE IS GRANTED?**

If there are cash receipts to be received your Executor or Administrator needs to open an Executor’s Account with a bank or building society into which the proceeds of the encashment can be made or proceeds from the sale of property. If any legacies are provided in the Will these should be paid along with any debts of the deceased. After these have been made, they should then prepare an Estate Account itemising all assets realised, legacies and debts paid and expenses incurred with a summary of how the estate is to be distributed which after approval by the beneficiaries, payments can be made to the beneficiaries entitled in the estate. This process should be completed within one year of death known as “the executors year”.

If solicitors are instructed to administer the estate they can collect the assets in the estate which can be paid into their client account which avoids the necessity for the executors to open an executor account.

**CAN UNIONLINE HELP YOU AND HOW MUCH DOES THIS COST?**

Absolutely!

If you wish us to simply obtain Probate or Letters of Administration in an estate where there is no IHT payable and the executor or administrator collects the assets and distributes them a fee of £480 (inclusive of VAT) is currently payable in addition to which there is the Probate Fee of £155.

If the estate is more complex and IHT is payable and if you wish us to administer the estate and make the distributions to beneficiaries we charge on an hourly basis at an hourly rate of £241.20 but which shall not exceed more than 2-3% of the value of the estate.

**PLEASE DO NOT HESITATE TO CONTACT ONE OF ADVISORS ON 0300 333 03 03**

| UNIONLINE | Legal Services: 0300 333 0303 |
Factsheet - PROBATE

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OTHER FACTSHEETS AVAILABLE INCLUDE:

✔ Wills
✔ Shareholder Agreements
✔ Property Ownership
✔ Personal Injury Trusts
✔ Partnership Agreements
✔ Life Interest
✔ Lasting Powers of Attorney
✔ Intestacy Chart
✔ Inheritance Tax
✔ Disabled Person Trusts
✔ Court of Protection
✔ Care Home Fees
✔ Probate

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