

TAKE FIVE

Your guide to probate
in five steps



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Your guide to probate in five steps

1. What is probate?

This is a broad term for the process of sorting a persons' financial and tax affairs once they have died. This usually involves liaising with various institutions including HM Revenue and Customs, banks, the Department for Work and Pensions, private pension companies and estate agents necessary when dealing with the deceased's home.

2. Who can administer an estate?

If the person who has died made a Will, they would have also appointed 'executors' - people or person who have the right to administer an estate. Generally, they can be referred to as the 'Personal Representative'.

If someone dies without a Will, they are said to have died 'intestate' and in this situation, the law decides who can become an 'Administrator', which can again be referred to as the Personal Representative.

3. Is probate always necessary?

Not always. If the estate is small, it can normally be dealt with by filling out a form (indemnity) and enclosing the death certificate. However, this is not necessarily a quicker or cheaper method than obtaining a Grant of Probate and it is unlikely that forms of indemnity will be accepted if the estate is worth more than £15,000.

While it is not always necessary to obtain a Grant, it is best practice.

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4. What are the duties of a Personal Representative(s) of a will?

As a Personal Representative, you are the person, either alone or with others, chosen to administer the assets of the person who has died and to carry out the terms of their Will.

The Personal Representatives have a duty to ensure that the estate is administered fully and properly, notifying institutions, paying any tax that may be due and that the estate is distributed to the right people. They also need to ascertain the size of the estate and check whether there are any debts outstanding such as loans, credit cards or mortgages.

Inheritance Tax forms need to be completed, which can be complex depending on the size of the estate and other factors such as the number of gifts made by the deceased or circumstances surrounding the deceased's pensions. These must be worked out in order to calculate how much Inheritance Tax is due to HM Revenue and Customs.

If you are appointed as a Personal Representative but you do not want to take up this role then you can sign a document, which means you will not be involved any further.

5. What happens if the Will is disputed?

As an increasingly litigious society we are seeing more issues arising over inheritance - usually by a family member or dependants. It's not always the case that just because a Will has been made that it can't be challenged in court.

This is why it is so important to get the proper guidance to avoid long and expensive court cases and years of distress.



Would you like to know more?

Please contact one of our expert lawyers in this sector:

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