

What is Probate?



The phrase, “Getting Probate” is commonly used when dealing with an estate after a death, but what exactly does it mean and how do you go about getting it?

A Grant of Probate is a document issued by the Family Division of the High Court that gives legal authority to the named executors in a Will to deal with the assets of the deceased. It is usually a requirement for executors to obtain a Grant of Probate prior to you dealing with the assets of the estate.

However, even if executors have been validly appointed there is no guarantee that all will proceed smoothly. There may be occasions where executors have died, or perhaps no longer wish to act, or even cannot be found. In such cases there are, however, procedures in place to enable the administration of the Estate to proceed.

Getting “Probate” is sometimes used fairly loosely as a generic term but in fact it is only one of several types of “Grants of Representation” and it may be useful to know some of the differences.

If someone other than a named Executor needs to administer the estate, a Grant called “**Letters of Administration with Will annexed**” is issued.

If someone dies without leaving a Will or one that is valid, the Grant issued in this case is called “**Letters of Administration**”.

A Grant of temporary administration can also be issued to allow such acts as are necessary to safeguard the Estate until the full Grant is issued. This is called “**Ad Colligenda Bona**”.

A Grant where the Estate is left partly un-administered because the personal representative appointed cannot continue for some reason is called “**De Bonis Non**” Administratis.

This Grant, which can be issued with or without a Will, is in respect of the un-administered part of the Estate.

If the total value of the Estate is limited, it may be possible for those entitled to cash the assets without the need for a Grant of Probate. However, payments are made at the discretion of the institution concerned.

We hope you find this Information Guide helpful but it is only intended to give a brief outline of the topic and should not be relied on as a basis for action. We would be happy to give you more detailed advice based on your individual circumstances.

If you have an enquiry about Probate or Estate Administration, contact us today to find out how we can help.

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