



Probate

Introduction

When a person dies, they usually leave an estate (including money, possessions and property). To deal with the estate you need to get the legal right to do so. This is called a grant and may be called 'a grant of probate', 'letters of administration' or 'letters of administration with a will'. Most cases follow the same basic process.

1. Check if there's a will – this normally states who is to sort the estate. If there is no will, the next of kin can apply.
2. Apply for the grant
3. Collect the estate's assets, for example money from the sale of the person's property
4. Pay any debts, for example unpaid utilities bills.
5. Pay any Inheritance Tax due
6. Distribute the estate – this means giving any property, money or possessions to the people entitled to it ('beneficiaries').

Is a grant always needed?

Not every estate needs a grant. A grant may not be needed if:

- the home is held in joint names and is passing by survivorship to the other joint owner(s).
- the estate passes to the surviving spouse or civil partner because it was held in joint names for example a savings account

Who can apply for probate?

You can apply for a grant if you are over the age of 18 and:

- you are an executor named in the will;
- you are named in the will to receive some or all of the estate (if there are no executors, or if the executors are unable or unwilling to apply); or
- the deceased person did not make a will and you are their next of kin, in the following order of priority:
 - lawful husband or wife or civil partner. The surviving partner of co-habiting couples not in a marriage or civil partnership are not entitled to apply for a grant.
 - sons or daughters (excluding step-children) including children adopted by the deceased. (Children adopted out of their biological family can only apply in the estates of their adoptive parents and not their biological parents.)
 - parents
 - brothers or sisters
 - grandparents
 - uncles or aunts
 - If sons, daughters, brothers, sisters, uncles or aunts of the deceased person have died before the deceased, their children may apply for a grant.

What if a person who has the right to a grant chooses not to apply?

Executors may choose to give up all their rights to a grant permanently ('renunciation') or they may reserve their right, ('power reserved'), to apply for a grant in the future. Unlike renunciation, power reserved will not prevent them applying for a grant at a later date should they need to do so.

Only the executor(s) who make the application will be named on the grant and only their signature will be required to release the deceased person's assets.

If the person who died did not leave a will and the person entitled to the grant does not wish to apply they may appoint someone else to be their attorney. The grant will be issued in the name of the attorney but will state that it is for the 'use and benefit' of the person entitled to the grant.

Why do I need to think about inheritance tax now?

The tax on the estate of a person who has died is called inheritance tax. It is dealt with by HM Revenue & Customs (HMRC). 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 HMRC have agreed the final inheritance tax liability. They will usually contact you again after you have received the grant. Subject to the requirements 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. HMRC 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 HMRC forms or inheritance tax. If you have any queries about these you should visit the HMRC website: www.hmrc.gov.uk/inheritancetax or contact the Probate and Inheritance Tax Helpline on 0300 123 1072.

Applying for a grant

There are three steps to follow;

1. Complete form PA1P or PA1A, including signing the section headed 'Legal Statement'
2. Complete and submit the correct Inheritance Tax form at www.gov.uk or complete and return the enclosed paper version
3. Send your completed forms, the original will (and codicils) along with three plain copies– if completing PA1P and an official copy of the death certificate to your preferred Registry (see PA4A). You may prefer to send your documents by recorded or special delivery post and keep a copy for your records.

Please note, we retain the original will, as it becomes a public record.

You must make your payment before you send in your form. You will be given a fee reference number which you must note on your form. To make your payment by debit or credit card, you must telephone your preferred registry between the hours of 9.30am-3.00pm Monday to Friday (refer to PA4SOT). Please only telephone this number for fee payment, not general queries. Alternatively, you can send a cheque payable to 'HMCTS' with your forms.

Once you have paid your fee you must send your application to the Registry where you made your payment. Failure to do this will delay your application.

If you have any queries following the submission of your application or assistance with the statement of truth, you can telephone the Registry where you submitted your application (see PA4SOT for general enquiry numbers).

Useful contacts

For general information on wills and probate:

www.gov.uk/wills-probate-inheritance/overview

For information about inheritance tax and online forms:

www.hmrc.gov.uk/inheritancetax

Probate Fees

Once you have calculated your fees, if you are paying your Probate fees by credit or debit card, this must be done before you submit your forms to between the hours of 9:30am-3:00pm Monday to Friday. Please only telephone their card payment number for making payments (see PA4SOT), not general queries. Please remember to quote the fee reference you are given on your application form.

	Fee
Application In all cases where the net estate (ie the amount remaining in the deceased's sole name after funeral expenses and debts owing have been deducted) is over £5,000 (see example 1 below). Note: Joint assets passing automatically to the surviving joint owner should not be included when calculating the fee.	£215
If the net estate as above is under £5,000 (see example 2 below).	No fee
Application for a second grant in an estate where a previous grant has been issued.	£20
Additional Copies Official (sealed) copies of the Grant of Representation if ordered when you lodge your application for a Grant of Representation. Note: You should decide how many copies you will need and add the cost to your application fee – this will give you the total amount payable. See examples below. It can save you a lot of time when collecting in the deceased's assets if you have a few extra copies of the grant to produce to the organisations holding the assets.	50p per copy
'Sealed and certified copy' – if assets are held abroad you may need one of these. Please check with the appropriate organisations before ordering.	50p per copy (including Will and Grant)
Additional copies (consisting of grant including a copy of the Will, if applicable) ordered after the Grant of Representation has been issued.	£10 for first copy then 50p per additional copy

Example 1				Example 2			
Net estate of				Net estate of			
£75,000	=	Fee	£215	£2,000	=	Fee	Nil
4 copies of grant at	=	Fee	£ 2	1 copy of grant at	=	Fee	50p
50p each		Total Fee	£217	50p each		Total Fee	50p

You can also send a cheque made payable to '**HM Courts & Tribunals Service**', together with your application forms, to the Probate Registry to which you are applying. You should state the number and type of copies you need on the checklist on PA1P or PA1P (application form). Please print the name of the **deceased person** on the back of the cheque.

Please ensure you order sufficient copies for your needs, when you send in your application.

Please note: Appropriate post must be paid. (Standard rate postage may not be sufficient. If your forms weigh over 60g they may need to be weighed at your local Post Office.)

What if I cannot afford to pay a fee?

If you cannot afford the fee, you may be eligible for a fee remission in full or part. The combined booklet and application form **EX160A – Court fees – do I have to pay them?** gives all the information you need. You can get a copy from any Probate Registry or from our website www.gov.uk/court-and-tribunal-forms

Your application will not be processed until the fee is paid (or an application for refund/remission has been successful).