



Bereavement Legal Issues

Probate

Probate is a legal process that allows a person to deal with a deceased person's assets - property, money and all other possessions – after their death. In order to deal with a deceased person's assets, a Grant of Representation is required.

Grant of Representation

There are three type of Grant of Representation depending not only on whether or not the deceased made a Will but also whether or not the Will made is completely valid.

1. Grant of Probate – this type of Grant is required where a valid Will has been made.
2. Grant of Administration Intestate – this type of Grant is required where the deceased never made a Will.
3. Grant of Administration with Will Annexed – this type of Grant is required where the deceased made a Will but where there is an issue with some aspect of the Will.

In certain circumstances a Grant of Administration may not be required i.e. where the deceased did not own property and where the value their other assets do not exceed a certain amount.

The Process

1. Determine whether or not the deceased had made a Will;
2. If the deceased has made a Will, it will state who the deceased wished to act as Executor – an Executor is the name for the person who deals with the persons assets where there is a Will. If the Executors named in the Will have passed away or do not wish to Act then an Administrator will be appointed in their place. This is one of the main circumstances in which a Grant of Administration with Will Annexed is required. There are strict rules as to who can be appointed as an administrator.

3. Ascertain the entire assets and liabilities of the deceased. Remember that in some cases where property is owned jointly by the deceased and another person it may be the case that this property is no longer owned by the deceased on their death as it may pass to the other joint owner under what is known as the principle of survivorship.
4. Submit application to the Probate office for a Grant of Probate/ Grant of Administration. This application usually takes approximately 12 weeks but can take longer.
5. Once a Grant is issued the estate can then be dealt with. Funds can be withdrawn from bank accounts and properties can be sold or transferred.
6. Once all assets are gathered debts and liabilities will be discharged and the inheritance of beneficiaries will be distributed to them.
7. Estate Accounts must then be drafted setting out the details of the administration of the deceased assets.

For More Information

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