



A Guide to Probate

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This note gives some basic information about dealing with the Legal and Financial affairs of someone who has died.

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What is Probate?

Probate is actually a certificate issued by something called the Probate Registry which confirms that the Will of someone who has died is legally correct and has been registered. In practice it acts as a document of authority for those dealing with the affairs of someone who has died.

The word *Probate* is often used to describe the whole process of dealing with the legal and financial affairs of someone who has died.

What if there is no Will?

The process is very similar but the certificate is called *Letters of Administration*.

Who has to get Probate?

The people responsible for obtaining Probate are called *Executors* (male) or *Executrixes* (female). They are appointed in the Will of the deceased. They are usually close members of the family.

Why do you need to get Probate?

The people who are entitled to the money and belongings of someone who has died are set out in the Will. A bank, for example, would not be happy to hand over the money in a deceased's account to someone claiming to be next of kin. Some proof is needed that someone is legally appointed to sort out the financial affairs of someone who has died (*Executor*). That proof comes in the form of the Probate.

How long do I have to obtain Probate?

You do not have to think about Probate until things have settled down as best they can after the funeral. There is usually quite a lot of work to do and so you ought to begin the process within say four weeks. There can be Inheritance Tax penalties payable if matters are not dealt with promptly.

Do you always need Probate?

Sometimes it is not necessary where, for example, everything belonging to the deceased was jointly owned with his wife or the value of what he owned was relatively modest. Some banks may for example release sums less than £5,000.00 without wishing to see Probate.

Can I get Probate Myself?

Yes you can but most people find the process too challenging and recruit the assistance of solicitors who do this type of work all the time.

Typically what is involved in the Process?

- Banks, Buildings Societies and other financial institutions are written to and provided with a certified copy of the Death Certificate.
- Details of balances and interest are obtained to put in the accounts of the Estate of the deceased.
- The house of the deceased is valued.
- The utility companies for the house are notified.
- An overall value for the Estate is calculated.
- Inheritance Tax forms are completed.
- Something called an *Oath for Executors* is prepared and sworn.
- Probate is applied for.
- A copy of the Probate is sent to the Banks, Buildings Societies and other financial institutions together with forms of authority who then close accounts and forward funds.
- HMRC are contacted and matters relating to tax are dealt with.
- Statutory Adverts protecting Executors are placed.
- The house is sold (where relevant).
- Accounts for the Estate are prepared
- Any debts of the deceased are paid.
- The Beneficiaries in the Will are paid what is due to them.

This is just a general guide and is no substitute for specific advice relating to a deceased's Estate