

**simplify**

## Take your own route

Your guide to completing probate



Call freephone

**0800 856 1408**

# Contents

## Chapter One

**What to do when someone dies** . . . . . 4  
 What is probate? . . . . . 7  
 How long does probate take? . . . . . 7  
 When to ask for professional advice . . . . . 7  
 When is probate not required? . . . . . 8  
 An overview . . . . . 8

## Chapter Two

**What to do before applying for the Grant** . 10  
 The funeral . . . . . 11  
 Registering the death . . . . . 11  
 Securing unattended assets . . . . . 12  
 The Will . . . . . 12  
 Intestacy . . . . . 13  
 Who benefits from the estate under the rules of intestacy . . . . . 14  
 Personal Representatives . . . . . 17  
 Renouncing Probate . . . . . 17  
 Power Reserved . . . . . 18  
 Finding the beneficiaries . . . . . 18

## Chapter Three

**Applying for the Grant** . . . . . 21  
 Different types of Grant . . . . . 22  
 The Probate and Inheritance tax forms . . . 23  
 Opening a Personal Representative's bank account . . . . . 23  
 Keeping accounts . . . . . 24  
 Assets . . . . . 24  
 Liabilities . . . . . 26  
 Miscellaneous documents . . . . . 28  
 Completing the probate forms . . . . . 28  
 Attending the Probate Registry interview . . 29

## Chapter Four

**What to do when you have received the Grant** . . . . . 30  
 Collection and distribution of the estate . . 31  
 Advertisement for creditors/unknown beneficiaries . . . . . 31  
 Claims against the estate . . . . . 31  
 Paying the debts . . . . . 31

Distributing the estate to the beneficiaries . 31  
 Preparing the estate accounts . . . . . 32

## Chapter Five

**More complex topics** . . . . . 33  
 Property . . . . . 34  
 Income tax . . . . . 35  
 Capital gains tax . . . . . 36  
 Inheritance tax . . . . . 36

## Chapter Six

**Scotland** . . . . . 41  
 Registering the death . . . . . 42  
 The Will . . . . . 42  
 Intestacy . . . . . 42  
 Assets . . . . . 44  
 Confirmation forms . . . . . 45

## Chapter Seven

**Glossary of terms** . . . . . 47

## Chapter Eight

**Useful contacts** . . . . . 52

## Chapter Nine

**Sample templates** . . . . . 54  
 Letter to asset holder informing them of the death and requesting information . . 55  
 Letter to liability holder informing them of the death and requesting information . . 56  
 Letter to asset holder enclosing the Grant and requesting the release of funds . . . . . 57  
 Letter to liability holder enclosing payment 58  
 Estate Accounts Summary . . . . . 59  
 Capital Account . . . . . 60  
 Estate income . . . . . 61  
 Letter to beneficiary with the inheritance payment . . . . . 62  
 Notes . . . . . 63

### Disclaimer

This information has been produced by Simplify to act as general guidance for people administering small, straightforward estates. In the majority of cases this means that the gross value of the estate is less than the inheritance tax threshold. In some more unusual cases this means that the estate is worth less than £1,000,000 and there is no inheritance tax to pay because of spouse, civil partner or charity exemption. The guide also gives some indication as to how to approach the administration of more complex estates and those that are subject to tax.

Administering any estate can be complex and creates significant responsibilities for the person who is undertaking this role. Specific issues may arise which are outside the scope of this guide. The information in this guide is for general guidance only and should not be considered to be full or comprehensive advice in relation to the administration of estates and reliance on the guide is entirely at the reader's own risk. Simplify accepts no responsibility for any errors or omissions. All financial figures and information are believed to be correct as of October 2014. If you have any questions or would like to give us any feedback on this guide, please call us on freephone 0800 856 1408.

# 1

## Chapter One

### What to do when someone dies

Dealing with the estate of someone who has died can be a challenging task, sometimes involving the sale of properties and investments, or the settlement of loans, debts, mortgages or tax issues. An individual who takes on that challenge may have to manage a wide range of legal, financial and administrative matters, often at a time of emotional distress.

Some people feel they may not have the time or the expertise to deal with the process. Others are concerned that they may be liable for any mistakes they make, or may not wish to deal with family disagreements over money.

For these reasons, most families decide to use a specialist professional to handle everything involved in the process, from start to finish. However many estates can be administered in a fairly straightforward way on a "DIY" basis, if you follow the correct guidance and approach it "step by step".

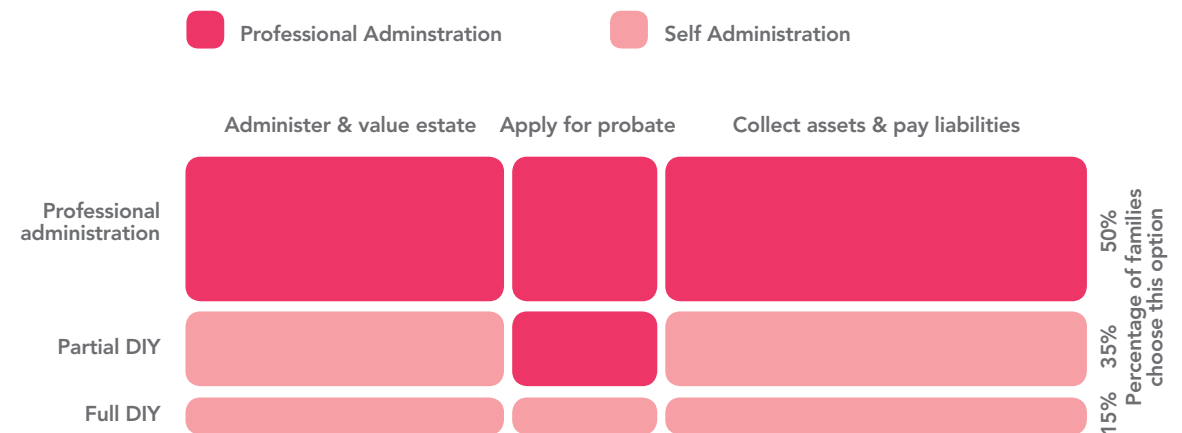
Before they will release larger amounts of money, organisations like banks and insurance companies normally need to see a document confirming who is legally entitled

to administer the estate. It is usually called a Grant of Representation (depending on your circumstances, this document may have a different name), but most companies describe it as 'Probate'.

**One of Simplify's goals is to help you make the right choice from these options:**

1. Full DIY (15% of families choose this option\*)
2. Partial DIY (Help Yourself. 35% of families choose this option\*)
3. Professional Administration (50% of families choose this option\*)

\* How Simplify families choose to administer their estates. Correct at December 2012.



The administration of an estate is often divided into three parts:

### 1. Who should administer and value the estate?

You must firstly establish who the Personal Representative(s) is (often called the Executor(s)). This is the person legally entitled to administer the estate.

*If the person applying for the Grant is named in the deceased's Will they are known as an 'executor', otherwise they are an 'administrator'. 'Personal Representative' is a general term for both*

The Personal Representative(s) will need to decide how the estate is to be administered by choosing one of the above three options and, if appropriate, appoint a professional to do all or part of the work for them.

During this first step it is important to value the estate properly. This includes obtaining a professional valuation of the property for HMRC, valuing bank accounts, car, shares, gifts in the last 7 years and all debts such as credit cards, loans and utility bills, etc.

### 2. Applying for Probate

When the Personal Representative has all the required information, someone drafts the legal documents including the Oath, which must be sworn by the Personal Representative(s). These are necessary to apply to the Courts for Probate, which confirms that the person or company is legally entitled to administer the estate.

### 3. Administering the estate

When the Personal Representative receives the Grant of Probate they can start to collect in the assets and settle any debts of the estate. When all assets have been received and debts have been dealt with, the balance of the estate can be given to the appropriate beneficiaries, according to their entitlement under the Will or intestacy rules.

#### Your choice

##### Remember you have options:

- Professional Help. You can appoint a specialist professional to take all the responsibility and liability away and deal with matters quickly and efficiently
- Help Yourself. You can be in control but have professional support at critical points
- Full DIY. You can do it all yourself

*Every estate is different; having its own challenges to deal with and requirements to be met. We can assist you to make the correct decision about how to administer the estate, which will make the whole process simpler for you.*

## What is probate?

*The term 'probate' is a general term used to refer to the process of estate administration*

Probate (or confirmation in Scotland) is a court order that asset holders require before they can release funds. Probate will usually be required if the value of the estate is more than £5,000 in the name of the deceased after the funeral has been paid for. Some asset holders have increased their threshold but there is no set rule and the legal threshold remains at £5,000.

Probate is required whether or not there is a Will and, due to the possibility of fraud or loss to the estate, the application for probate should start as soon as possible.

## How long does probate take?

Probate is often a complex and time-consuming process, which involves many organisations, individuals and government departments. For an average estate, probate takes between six to nine months to complete and takes up to 80 working hours. This period includes all the processes required, from obtaining valuations to making payments to the beneficiaries, not just the time from when forms are submitted to the Probate Registry until the issue of the Grant. However, every case is different and delays can occur, for example if the asset or liability holders take a long time to reply to requests for information.

*If the deceased owned money or property in joint names, please see chapter five*

## When to ask for professional advice

It is advisable to consult a professional in the following circumstances:

- The Will cannot be found
- If there is a problem with the Will, e.g. if it has only been witnessed by one person
- The Will is likely to be challenged
- The beneficiaries cannot be located
- The terms of the Will are not clear
- The estate is subject to inheritance tax
- The deceased was married, but left no Will and the final value of the estate is over the inheritance threshold, currently £325,000
- There is no Will, the value of the estate is over £250,000 and there is a spouse or civil partner and children of the deceased
- There is no Will, the value of the estate is over £450,000 and there is a spouse or civil partner and children of the deceased
- Part of the estate will be passed to children under the age of 18
- The deceased has left money or property in trust
- The deceased owned a business or was a partner in a business
- The deceased owned land or property that has an unregistered title
- The deceased owned land or property abroad
- The Will contains a Trust
- If the deceased inherited from another estate within the last two years
- The estate is insolvent
- The deceased is involved in any court proceedings

## When is probate not required?

Under the Administration of Estates (Small Payments) Act 1965, if the estate is worth less than £5,000 it can be distributed without proof of formal title. Therefore if the total value of everything owned by the deceased in their sole name is less than £5,000, you do not normally need to apply for probate.

Banks and building societies will often release small amounts of money on receipt of a Registrar's death certificate. They may also ask you to sign a statutory declaration form to confirm you will be distributing the estate in accordance with the Will or intestacy rules. You may be asked to do this in the presence of a solicitor or a Commissioner of Oaths.

Bank and building society accounts in joint names can usually be transferred to the surviving holder without probate. If the deceased owned property or money in joint names, please see chapter five.

There are also some assets which can normally be claimed without the need for probate. For example, life insurance policies held in trust, pension benefits and nominated property. Please see 'the assets' in chapter three for more information. HM Revenue & Customs may ask to see a set of accounts, so you must keep the original Will and all records.

## An overview

The list below shows you what needs to be done and in what order, from registering the death to distributing the estate. The guide will take you through most of these steps.

- Contact the doctor to report the death and obtain the medical certificate for the cause of death, provided the coroner is not involved
- Contact the funeral director to start making arrangements for the funeral
- Register the death and obtain copies of the death certificate
- Secure the deceased's assets and property if it is unoccupied
- Find and read the Will, if there is one, and confirm its validity
- Contact the Personal Representatives if they have been named in the Will, or if there are no Personal Representatives, determine who is entitled to administer the estate
- Find all documents relating to the deceased, financial and otherwise
- Register the death by sending a death certificate to each of the asset and liability holders and ask them to confirm the value of each asset and liability at the date of death together with the level of income received during the last tax year up to the date of death
- Open a bank account on behalf of the estate (often referred to as an Executor's Account)
- Contact the Personal Application Department of the Probate Registry and ask them to send you the relevant forms ([www.justice.gov.uk/courts/probate/applications](http://www.justice.gov.uk/courts/probate/applications))
- If the estate is not subject to inheritance tax, complete form IHT205. The current inheritance tax threshold is £325,000
- Complete form IHT400 if the estate is subject to inheritance tax, if it is worth more than £325,000 or if certain circumstances apply, such as foreign assets valued over £100,000
- If there are insufficient, available funds, arrange funds or a loan to pay inheritance tax and the probate fees. The probate fees are currently £105 for a personal application and £1 per copy of the Grant if purchased at the same time
- Fill in the appropriate forms and send them back to the Probate Registry together with the original Will, the deceased's death certificate and relevant Inheritance Tax form
- Attend the interview at the Probate Registry when requested to do so and swear the papers
- Receive the Grant
- Place the statutory advertisement for creditors and other claimants
- Send a copy of the Grant to all the asset holders and request payment of all funds
- Complete the income tax forms and capital gains tax forms for the period of administration
- Pay all creditors
- Complete stock and share transfer forms and draft an assent for the property
- Prepare the estate accounts
- Once the accounts have been approved by the Personal Representatives, pay all beneficiaries and distribute the legacies
- Keep all papers for a minimum of 12 years

## 2

## Chapter Two

---

## What to do before applying for the Grant

Before you apply for the Grant there are some important things that need to be done. Most importantly, the death must be registered at the appropriate Register Office or a Coroner's Interim Certificate obtained. Many people also choose to arrange the funeral first but you can take the first steps of probate at the same time as you are making funeral arrangements.

### The funeral

In most cases, the funeral director will not be able to conduct the funeral until the death has been registered. If the death has been referred to the Coroner, the Coroner's Officer will advise when funeral arrangements can be made. Funeral directors are extremely knowledgeable and can help by explaining what you need to do and will be able to answer any questions you have. Whatever the circumstances, it is best to contact the funeral director as soon as possible.

The funeral is often arranged by the closest family and friends and as a Personal Representative it is your responsibility to deal with the financial aspects of this. Funeral expenses can be reclaimed from the estate so you will need to keep a record of the expenses and all paperwork. If a member of the family or a friend pays for the funeral this can also be reimbursed from the estate.

### Registering the death

When someone dies, the death must be registered with the local Registrar of Births, Marriages and Deaths. Usually a close family member registers the death. All deaths in England and Wales should be registered within five days of the death unless there is a delay due to the involvement of the coroner.

### At the Register Office

#### You should take:

- The medical certificate of cause of death, signed by the doctor, unless it has already been sent straight to the Registrar
- The NHS medical card of the deceased
- The deceased's birth certificate, if you have it.

#### You will be asked for the following information about the deceased:

- Full name, including maiden name (and any other former names or aliases)
- Address and occupation
- Date and place of birth as shown on the birth certificate
- Date and place of death as shown on the medical certificate of cause of death
- Name and date of birth of the deceased's spouse whether living or not (and in Scotland details of former spouses)
- Spouse or civil partner's occupation

***You will need a copy of the death certificate for each of the deceased's assets. These must be certified copies made by the Registrar of Deaths. It is best to ask for extra copies straightaway as it is more expensive to request additional copies at a later date***



**Many register offices also offer the Tell Us Once service:**

This service forwards information about the death to most central and local government services used by the deceased. It is a voluntary service and is sometimes offered face to face or you may be given an identification code and complete the process by telephone. This must be done within 28 days.

**Securing unattended assets**

If the deceased's home is left unoccupied, it is imperative to make sure that it is securely locked. You should also remove all valuables for safekeeping. You will need to contact the buildings and contents insurance companies to inform them of the death and make arrangements for insurance cover. If you are looking after any items that were covered under an insurance policy you must remember to inform your own insurers of the situation. It is a good idea to maintain water, heating and electricity supplies to the property, although you should ask the insurance company if they require the water supply to be turned off in winter or heating left on as part of the insurance cover.

Post should be redirected to the address of one of the Personal Representatives. Postal redirection forms can be obtained from the post office.

If the deceased owned a car, the insurance will automatically become invalid and the insurance company must be informed immediately.

**The Will**

***A valid Will must have been signed by the deceased in the presence of two independent witnesses.***

***If you find a copy, but cannot find the original Will, you may be able to apply for the Grant, but you must inform the Probate Registry immediately. The Registry will need proof that the original Will has not been destroyed or revoked before the deceased's death***

Carefully take copies of the Will without removing any fastenings and keep it in a safe place. Do not write on it or amend it in any way, and do not attach paperclips or notes to it of any kind. If you are not able to find the Will it may be held at the deceased's solicitors or bank. Sometimes Wills are deposited at the Safe Custody Department of the Principal Probate Registry in London. If so, there should be a deposit certificate for the Will amongst the deceased's possessions. You can find the Principal Probate Registry address at the back of this guide.

**Terms used in the Will****Husband/Wife**

'Husband/Wife' refers to the married partner at the time of death. If the deceased married after the Will was made then that Will is automatically revoked unless it was made expressing the expectation of marriage. If divorce proceedings had begun before the deceased's death, the Husband/Wife retains their right to inherit until the decree absolute is granted.

**Civil partner**

'Civil partner' refers to the registered civil partner at the time of death. If the deceased entered into a registered civil partnership after the Will was made then that Will is automatically revoked unless it was made expressing the expectation of the registered civil partnership. If dissolution proceedings had begun before the deceased's death, the civil partner retains their right to inherit until the final dissolution order is granted.

**Child**

'Child' refers to a child of the deceased conceived at a date before the deceased's death. This includes:

- Children born to a current or former marriage or registered civil partnership
- Children born to parents who are not married
- Adopted children
- Children 'en ventre sa mère', i.e. conceived but unborn at the date of the deceased's death
- Children conceived by artificial means to married parents

NB. Child does not include step-children of the deceased.

***Note: The inheritance tax threshold is currently £325,000. If the estate is over the inheritance tax threshold, please see chapter five***

**Specific Legacy/Gift**

This is a gift of a particular item of the deceased's estate (e.g. my grandfather clock). Unless the Will states otherwise, any costs to transfer the gift are payable by the beneficiary of that gift. If the deceased did not own this item at the date of death then the gift will

be invalid. If it is a gift of a property then you should seek independent legal advice as there may be matters to consider such as payment of any outstanding mortgage and upkeep (e.g. insurance).

**Pecuniary Legacy/Gift**

This is a gift of a set sum of money (e.g. £5,000 to John Smith). Any costs for paying this come from the residuary estate (e.g. if it is to be paid outside of the UK)

**Residuary Estate**

This is the remainder of the estate after payment of all funeral expenses, any Inheritance Tax, liabilities, administration expenses and legacies.

**Intestacy**

If you die without leaving a Will you are considered to have died 'intestate'. The Administration of Estates Act 1925 states who is entitled to administer the estate and benefit from it.

**Who can administer the estate under the rules of intestacy**

When someone dies without leaving a Will there is a set of rules laid down in law stating who can apply to administer the estate. The closest relatives are expected to apply first. If one of the beneficiaries is under 18, or if someone is to benefit from a life interest in the estate, there must be two Personal Representatives.

1. The spouse or civil partner of the deceased
2. Children of the deceased
3. Issue of children of the deceased
4. Parents of the deceased
5. Brothers and sisters of the whole blood of the deceased





having been able to benefit from the estate. However, if a child dies before the spouse or civil partner (known as predeceased), their share is passed down to their children or failing that, divided between the remaining children of the deceased.

A spouse or civil partner has the right to ask to take a lump sum instead of the life interest; this decision must be made in writing to the Personal Representatives within 12 months of the Grant being issued. The amount the spouse or civil partner will receive will be in accordance with specific rules. A spouse or civil partner considering this option should take legal advice as soon as possible.

If the matrimonial home forms a part of the estate passing under the rules of intestacy, the spouse or civil partner can require that the Personal Representatives transfer the property in full or partial satisfaction of their entitlement. If the home is worth more than the spouse or civil partner's entitlement the spouse or civil partner must pay the difference. The election for the transfer must be made in writing to the Personal Representatives within 12 months of the Grant.

**If there is a spouse or civil partner and no children, but parents (or brothers or sisters or their issue) of the deceased are still living**

**The spouse receives:**

- All chattels
- The first £450,000 of the estate and
- Half of the remainder of the estate

**The parents of the deceased, or if the parents are no longer living (predeceased) then the brothers or sisters of the whole blood of the deceased or their issue if they are predeceased receive:**

- The other half of the remainder of the estate equally

**If there is a spouse or civil partner and no children, and no other surviving relatives**

If the deceased was married or in a registered civil partnership the spouse or civil partner inherits everything, i.e. all the property and all the personal items (chattels), provided the spouse or civil partner survives for a period of 28 days following the date of the deceased's death. If a spouse or civil partner does not survive the 28 days, the estate is distributed as if the spouse or civil partner had died before the deceased. If there are no other surviving relatives the estate will pass either to the Crown, Duchy of Lancaster or Duchy of Cornwall, via the Treasury Solicitor BV, depending on where the deceased lived.

**If there is no surviving spouse or civil partner, or the deceased was a bachelor, spinster or single**

In this case the estate is handed out in the following order of priority:

1. **Children** – The children of the deceased share the estate equally. If one of those children has died before the deceased, their share is passed down to their children. Stepchildren are not entitled to inherit. As noted on page 14, children must be 18 or married, otherwise their share will be held in trust until they reach the age of 18 or marry.
2. **Parents** – If there are no children the deceased's parents inherit equally. If one parent has died, the surviving parent inherits the deceased parent's share. Stepparents are not entitled to inherit.
3. **Brothers and sisters** – If there are no parents living, the brothers and sisters of the whole blood of the deceased inherit equally. If one sibling has died before the deceased leaving children, their share is passed down to their children.

4. **Half brothers and sisters** – Half brothers and sisters of the deceased inherit equally. Stepbrothers and sisters are not eligible to inherit. If one half sibling has died before the deceased leaving children, their share is passed down to their children.
5. **Grandparents** – Grandparents of the deceased inherit in equal shares.
6. **Uncles and aunts** – Uncles and aunts of the whole blood of the deceased inherit in equal shares. If one or more is deceased, their children inherit their share.
7. **Uncles and aunts of half blood** – This refers to uncles and aunts who share one parent in common with the deceased. The same rules apply as to whole blood uncles and aunts.
8. The Crown, Duchy of Cornwall or Duchy of Lancaster.

**Partners**

If the deceased was not married but living with a partner, and did not make a Will, the surviving partner has no automatic right to inherit any or part of the deceased's estate.

Since 1st January 1996 a partner can claim a right to a share in a deceased's estate if he or she can prove to the courts that he or she had lived with the deceased as husband or wife for a two year period immediately prior to the deceased's death. The Civil Partnership Act 2004 was introduced on 5th December 2005 in the UK. Since that date same gender couples who have entered into a registered civil partnership will have the same rights as married couples under the rules of intestacy.

**Who benefits from the estate under the rules of intestacy**

For a death on/after  
1 October 2014

**If there is a spouse or civil partner and children**

The estate is shared between a spouse or civil partner and the children of the deceased as follows:

*You can see a chart showing who inherits according to the rules of intestacy on page 18*

**The spouse or civil partner receives:**

- All the deceased's property and personal items (known as 'chattels')
- The first £250,000 of the estate
- Half the remainder of the estate

**The children receive:**

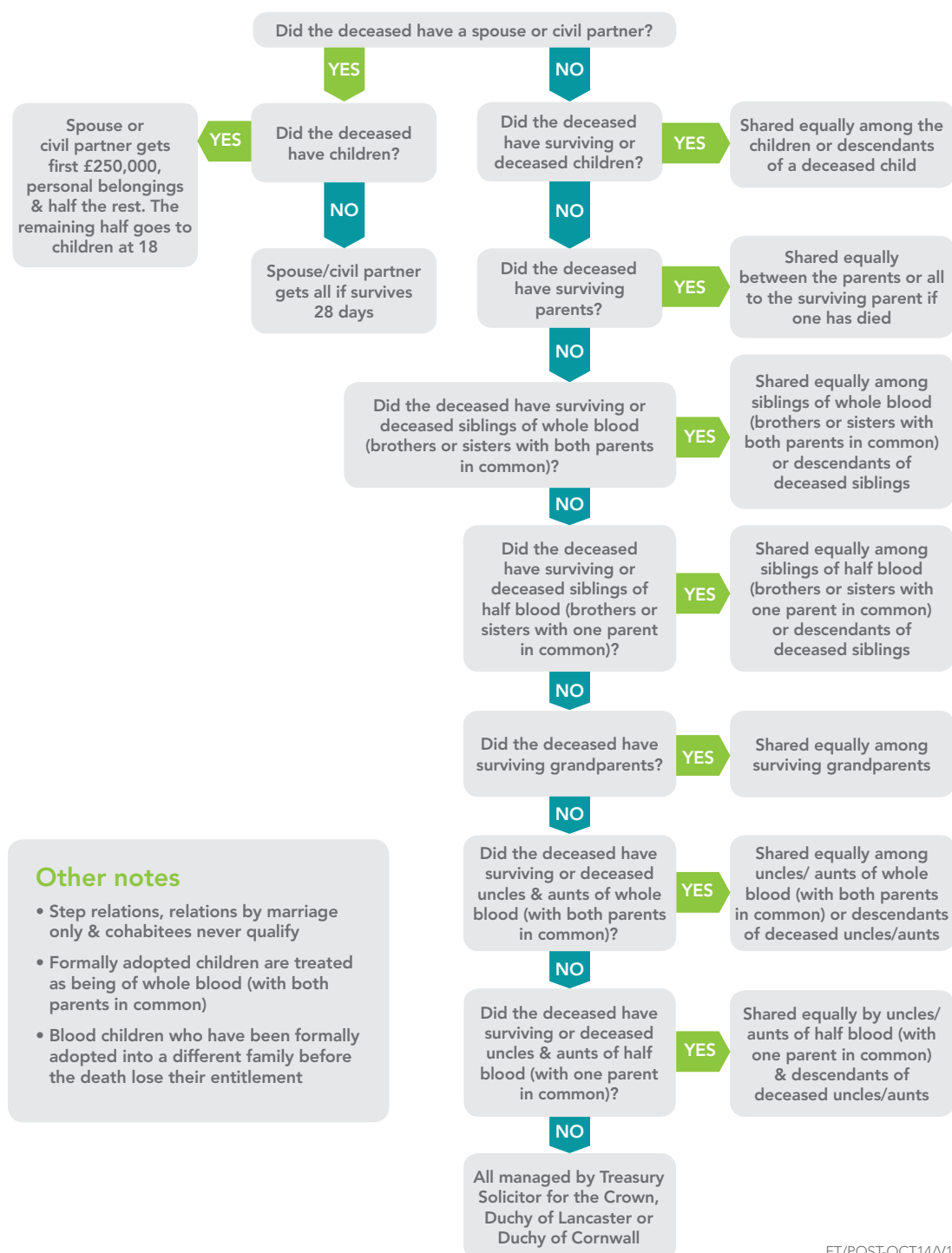
- The other half of the remainder of the estate at the age of 18

The share due to the children will be divided equally between them. Children must be 18 or married otherwise their share will be held in trust until they reach the age of 18 or marry.

If a child survives the deceased but dies before reaching 18, he/she will be treated as never having been able to benefit from the estate. However, if a child dies before the spouse or civil partner (known as predeceased), their share is passed down to their children or failing that, divided between the remaining children of the deceased.

If the matrimonial home forms a part of the estate passing under the rules of intestacy, the spouse or civil partner can require that the Personal Representatives transfer the property in full or partial satisfaction of their

## The rules of intestacy for a death on/after 1 October 2014



### Other notes

- Step relations, relations by marriage only & cohabitantes never qualify
- Formally adopted children are treated as being of whole blood (with both parents in common)
- Blood children who have been formally adopted into a different family before the death lose their entitlement

entitlement. If the home is worth more than the spouse or civil partner's entitlement the spouse or civil partner must pay the difference. The election for the transfer must be made in writing to the Personal Representatives within 12 months of the Grant.

### If there is a spouse or civil partner and no children

#### The spouse receives:

- The entire estate if they survive for a period of 28 days following the date of the deceased's death

If a spouse or civil partner does not survive the 28 days, the estate is distributed as if the spouse or civil partner had died before the deceased. If there are no other surviving relatives the estate will pass either to the Crown, Duchy of Lancaster or Duchy of Cornwall, via the Treasury Solicitor BV, depending on where the deceased lived.

### If there is no surviving spouse or civil partner, or the deceased was a bachelor, spinster or single

In this case the estate is handed out in the following order of priority:

1. **Children** – The children of the deceased share the estate equally. If one of those children has died before the deceased, their share is passed down to their children. Stepchildren are not entitled to inherit. As noted on page 17, children must be 18 or married, otherwise their share will be held in trust until they reach the age of 18 or marry.
2. **Parents** – If there are no children the deceased's parents inherit equally. If one parent has died, the surviving parent inherits the deceased parent's share. Stepparents are not entitled to inherit.

3. **Brothers and sisters** – If there are no parents living, the brothers and sisters of the whole blood of the deceased inherit equally. If one sibling has died before the deceased leaving children, their share is passed down to their children.
4. **Half brothers and sisters** – Half brothers and sisters of the deceased inherit equally. Stepbrothers and sisters are not eligible to inherit. If one half sibling has died before the deceased leaving children, their share is passed down to their children.
5. **Grandparents** – Grandparents of the deceased inherit in equal shares.
6. **Uncles and aunts** – Uncles and aunts of the whole blood of the deceased inherit in equal shares. If one or more is deceased, their children inherit their share.
7. **Uncles and aunts of half blood** – This refers to uncles and aunts who share one parent in common with the deceased. The same rules apply as to whole blood uncles and aunts.
8. The Crown, Duchy of Cornwall or Duchy of Lancaster.

### Partners

If the deceased was not married but living with a partner, and did not make a Will, the surviving partner has no automatic right to inherit any or part of the deceased's estate.

Since 1st January 1996 a partner can claim a right to a share in a deceased's estate if he or she can prove to the courts that he or she had lived with the deceased as husband or wife for a two year period immediately prior to the deceased's death. The Civil Partnership Act 2004 was introduced on 5th December 2005 in the UK. Since that date same gender couples who have entered into a registered civil partnership will have the same rights as married couples under the rules of intestacy.

### Personal Representatives

If the person applying for the Grant is named in the deceased's Will, they are called an 'executor', otherwise they are known as an 'administrator'. The general term for both roles is 'Personal Representative', and that is the term we have used throughout the guide. Strictly speaking there are a few things that an executor can do that an administrator cannot, but these will be explained later in the guide under the schedule of actions.

If you agreed to be a Personal Representative but no longer wish to take on the role, you can stand down or 'renounce'. You will have to complete a form of renunciation from the Probate Registry. If you want to remain as a Personal Representative but play a less active role in the administration you can have 'power reserved', which means you can still take over if a co-Personal Representative becomes ill or dies or if you have any other concerns about how they are handling the estate.

### Renouncing Probate

A Personal Representative who does not wish to accept their appointment can renounce it. This means that they give up their right to act as a Personal Representative. A renunciation must be in writing. The guidance notes which accompany the Probate Application form PA1, explain how this can be done, referred to in chapter three.

### Power Reserved

A Will may appoint more than one Executor. It is not necessary for all Executors to apply for the Grant; only one is necessary. Those Executors who do not wish to renounce and do not wish to apply for the Grant can have 'power reserved' to them. This means that although they do not take the Grant now, they can apply for a new Grant at a later date if required, for example if the Executor taking the Grant dies without completing the administration of the estate. The guidance notes which accompany the Probate Application form PA1, explain how this can be done, referred to in chapter three.

### Finding the beneficiaries

If the estate is solvent you should advise the beneficiaries of their entitlement under the Will or intestacy. You may also provide them with a copy of the Will.

If you cannot find a beneficiary, you must take all necessary steps to locate them. This may include employing the services of a genealogist company. Any costs for this can be taken from the estate. Whilst locating any missing beneficiaries you can continue to apply for probate.

Depending on the wording of the Will, if a beneficiary, who was a child, grandchild or remoter issue of the deceased, dies before the deceased, but has children of his/her own, then his/her share passes in equal shares to them.

# 3

## Chapter Three

---

### Applying for the Grant

There are slightly different processes involved depending on which type of Grant you are applying for. Also different forms will be required depending on whether inheritance tax is due.

There are three main types of Grant.

## Different types of Grant

*The general term for all Grants is Grant of Representation*

### 1. Grant of Probate

If the deceased left a Will and appointed one or more Personal Representatives (called the Executor or Executrix) and at least one of those Personal Representatives is willing to act, then the Grant is called a Grant of Probate.

### 2. Letters of Administration with Will Annexed

If the deceased left a Will, but did not appoint a Personal Representative, or those appointed are not able or willing to act at his death, then the Grant is called Letters of Administration with Will Annexed.

### 3. Letters of Administration

If the deceased died 'intestate' i.e. leaving no Will, or if the Will is invalid for any reason, the Grant is called Letters of Administration.

**Where the Will does not appoint a Personal Representative, there is an order of priority stated by law about who can apply to be a Personal Representative:**

1. A residuary beneficiary
2. A Personal Representative of a residuary beneficiary who died after the deceased
3. A beneficiary of a specific gift
4. A Personal Representative of a beneficiary of a specific gift
5. Any creditor

**The duties of a Personal Representative are to:**

- Identify and collect assets and settle debts
- Identify all beneficiaries
- Prepare the estate accounts which are required when the administration process is complete. The Probate Registry may also request the accounts when applying for the Grant. A template for the estate accounts can be found in chapter nine
- Distribute the estate in accordance with the Will or the rules of intestacy

## The Probate and Inheritance tax forms

*More advice and information on the probate forms can be found in chapter five*

Although you will not know the exact value of the deceased's estate until you have written to all the asset and liability holders, you will probably have a good idea of the value of the estate, and this will determine which forms you need to complete in order to apply for probate.

This chapter only covers estates where the value of the estate is either less than the inheritance tax threshold or in cases where the estate is worth less than £1,000,000 and there is no inheritance tax to pay because of spouse, civil partner or charity exemption. If you are dealing with an estate of over this size, you will also need to refer to chapter five which covers the tax implications of estates of this value, and details the forms you will need.

The forms tell the Probate Registry about the deceased and the value of the deceased's estate. It is very important that you are as accurate as you can be with the information you provide. Failure to be clear and open can cause lengthy delays.

To apply for the Grant in England and Wales you will be required to complete:

- Form PA1 (if the deceased died in England and Wales)

- Form IHT 205 if the value of the estate is either less than £325,000 or less than £1,000,000 and there is no inheritance tax to pay because of spouse, civil partner or charity exemption
- There are usually guides to accompany most forms, whether you are applying for the forms online or through the post. More advice and information on these forms can be found in chapter five.

## Opening a Personal Representative's bank account

*Some banks will now want to see the Grant before opening a Personal Representative's account*

Although most organisations will not release money until they see the Grant, it is a good idea to open a bank account on behalf of the estate straightaway so that you can pay money into it as funds are released.

This will also allow you to write cheques for the probate application forms and to pay liabilities where necessary. The bank and other institutions can then transfer money from the deceased's bank account into the Personal Representative's account once the Grant has been issued.

## Keeping accounts

All the figures that you provide on the probate forms will be analysed by HMRC, so it is important to keep an account of all your preparatory work.

### Personal Representative's Expenses

Lay Personal Representatives are not entitled to claim expenses for their time but any other reasonable administrative expenses may be claimed for, such as travel, telephone, stationery and postage costs, provided the receipts are kept. You may also claim for the cost of the probate fees, death certificates and bank charges. So you should keep copies of cheques that you write and receipts for all money that you pay out.

## Assets

*There are letter templates for you to use when writing to asset and liability holders in chapter nine*

### Bank and building society accounts

If the deceased held accounts in their sole name you should write to all the bank and building societies where the accounts were held, explaining your position and enclosing a copy of the death certificate (see the sample template in chapter nine).

Ask the bank to stop all standing orders and direct debits and to send you a letter of final account and details of any income tax certificates that may have been issued for the accounts, along with a list of deeds and share certificates that they may be holding on behalf of the deceased.

Any cheques that the deceased wrote prior to death, and subsequently presented to the bank will be returned with a note stating 'drawer deceased'. Cheques that are presented to the bank and not met in this way become part of the deceased's debts and should be entered into the probate forms. It may be possible to pay cheques for small amounts into a frozen account but all electronic transactions will be stopped. Ideally money owed to the deceased should be made payable to the account opened by the Personal Representative for the estate.

### Premium bonds and national savings certificates

If you cannot find NS&I certificates but think the deceased may have owned bonds or certificates, you can ask the NS&I for a free tracing service. If the deceased had Premium Bonds you may leave them in the prize draw for one year after the date of death, or you can cash them in. Premium Bonds cannot be transferred and must be cashed in during the administration of the estate.

### Employment and wage related contracts

If the deceased was employed at the date of death it is likely that wages will be outstanding. You should write to the employer stating your position, enclosing a copy of the death certificate and asking for a final assessment of outstanding wages. The employer will usually wait to see the Grant before paying any outstanding money to the estate.

### State pensions, benefits and tax credits

Notifying the Department of Work and Pensions (DWP) of the death can be done using the Tell Us Once service (if provided when the death was registered), the certificate of registration or notification of death (BD8) provided by the registrar of deaths or by telephoning the DWP Bereavement Service who will tell you if you also need to send in the BD8. Pension and state benefits that had not been paid to the deceased up to the date of death should be claimed by you and entered into the probate forms as money owed to the estate.

Changes to pensions and benefits mean that many are paid retrospectively which reduces the risk of overpayment. You should call the appropriate agencies so they can put an immediate stop on payments prior to receiving the written confirmation of death (the BD8 form).

### Private pensions, company pensions and life insurance policies

If the deceased had an occupational, company or private pension, death-in-service benefit, or life insurance policy you should write to the providers enclosing a copy of the death certificate asking for a calculation of the final statement. If the policy has been written in trust for someone else it can usually be paid out to that person straightaway without the need for probate. Otherwise it will form a part of the deceased's estate and must be declared on the probate forms. Funds of this kind are sometimes paid directly from the policy companies to a mortgage provider or creditor.

### Share certificates

If the deceased held shares you should write to the Share Registrar of the respective company with details of the deceased, the holding (including the number of shares, company details and share certificate number, if you have this information) and a copy of the death certificate asking that they confirm the holding. If you believe that the deceased held shares in a company but cannot find any share certificates, it may be that they are being held by the a stockbroker, at the deceased's bank or with the deceased's accountant and you should write to them with a copy of the death certificate and ask whether they hold the certificates.

Many quoted companies no longer issue share certificates unless they are specifically requested to do so. If the shares were purchased recently, they are likely to be held by an electronic settlement system, such as CREST. This will be confirmed by the registrar.



**DWP Pension Service**

**0845 606 0265  
for English speakers**

**0845 606 0275  
for Welsh speakers**



A stockbroker will charge a fee for valuing the shares but you could check their value yourself by looking at the Stock Exchange Daily Official List or websites such as [www.ft.com](http://www.ft.com). The share price needed is the value of the shares on the day the deceased died (on the previous Friday if they died over the weekend), and it is this price that you will need to enter into the probate forms. An estimate of the share value is sufficient for small estates, however for estates worth more than the inheritance tax threshold, a formal valuation will be required.

#### Rent book

If the deceased paid rent it is likely that it will have been paid for a period after their death. If this is the case, you should make a copy of the rent book and write to the landlord requesting a final statement. This sum should be entered into the probate form as money owed to the estate. If the deceased was in arrears with the rent, the landlord will notify you and the outstanding debt must be entered into the forms as a debt of the estate.

#### The deceased's car

If you need to ask a garage for a valuation, remember to ask for the estimated value of the vehicle on the date the deceased died. You should enter the value of the vehicle on the forms as an asset. If there were outstanding debts against the car, if it was bought with a loan or with a hire purchase agreement, you should also record those as debts against the estate. If you are an executor as opposed to an administrator, you can sell the deceased's car before applying for probate.

#### Items such as jewellery, paintings, furniture and collectibles

You can give a total value of many household items if no individual item has a value greater than £500. If the deceased was married it is likely that all household goods will be considered to have belonged to the couple jointly and the value of those goods should be halved for the forms.

Items that have been valued for insurance purposes will have been insured for a replacement value, and this value will be higher than the value you should record into the probate forms. For the purposes of probate you need to enter the price you would receive if you were to sell the goods on the open market on the date the deceased died. If you have to have any items valued by a professional, you should keep a record of the fees you incur as you are entitled to recover them later from the estate.

### Liabilities

#### Household bills, such as water, gas, electricity and telephone

You will need to write to all the service providers to request a final account. If the deceased had direct debit accounts in place for the providers these should be cancelled if they are in a sole name, or transferred to the spouse or civil partner's new sole account. If a property is to be sold and there are no available funds, you will need to tell the service provider that the account will be settled by the estate when the sale is complete.

#### Council tax

If the deceased paid council tax you should inform the local authority as soon as possible, as council tax ceases to be due from the date of the deceased's death. If the deceased did not live alone you should still let the council know, as the surviving occupant may be entitled to a 25% reduction if they are living alone or with dependent children. Local councils do not charge council tax on unoccupied property until six months after the date probate is granted. Refunds of council tax must be registered on the probate forms as an asset due to the estate as described above.

#### Mortgage

If there is a mortgage on the deceased's property, you must write to the mortgage lender, enclosing the deceased's name, address, mortgage account number and a copy of the death certificate. You will need to ask for the outstanding value of the mortgage. If the deceased had a life assurance or mortgage protection policy for their mortgage, you must check whether the policy will cover the mortgage payment and if so, whether there will be excess funds left over.

Although most companies used to accept that a mortgage would not be paid while the Personal Representatives waited for probate, some companies now insist that the mortgage payments are continued. You should find out how the mortgage company will treat the loan, and if necessary look for ways to raise money to pay these bills whilst you are waiting for the Grant. If the mortgage is held in joint names, it will pass to the survivor and half the value will need to be included on the probate forms.

#### Credit card bills, overdraft and loan agreements

If the deceased had outstanding debts with credit card and loan companies you will need to write to the companies asking for a final statement of the deceased's account. The debt should be entered into the probate forms as debts of the estate, and settled out of the deceased's estate when probate has been received.

#### The funeral bill and expenses

Funeral bills and expenses should be paid directly from the deceased's bank accounts. Banks will normally release the funds to pay for the funeral if you give them the funeral director's bill and a copy of the death certificate. Many funeral directors require a deposit, especially to cover the cost of the disbursements, which are costs to third parties such as the crematorium or organist. It is important to remember that if you arrange the funeral, you are responsible for paying the bill. You may need to arrange access to funds to pay these costs if there are insufficient funds in the deceased's accounts to pay for the funeral.

***A disbursement is a payment made to a third party by a professional, e.g. Funeral Director or solicitor.***

#### Hire purchase agreements and personal loans

Loan companies should be contacted and a final statement requested. If the loan or agreement was in place to pay for an asset, such as a car or furniture, that asset must be entered into the probate forms alongside the debt. Hire purchase agreements cannot be continued until probate has been received.



## Miscellaneous documents

If the deceased had documents such as a passport, driving licence, library membership, bus pass, disabled badge or parking permit, you should return them to the appropriate offices to be cancelled, due to the risk of identity theft. Many of these can be dealt with by the Tell Us Once service if this was provided by the registrar of deaths.

## Completing the probate forms

When you have gathered all of the information you require to complete the probate application forms you will need to complete them before sending them to the Probate Registry. The probate forms and guidance notes are available to download from the probate registry website. Inheritance Tax forms are available from HMRC's website.

### FORM PA1: The Probate Application Form

#### In this form, the following information will be requested:

- The deceased's date of birth and death, full name, address, and occupation
- The Will and whether Personal Representatives were appointed
- The numbers of all of the deceased's relatives in categories such as children, brothers and sisters, uncles and aunts etc
- The applicant(s) – The person(s) to whom the Grant will be issued
- Details of the surviving spouse or civil partner
- Details of assets held in another name
- The deceased's adoption if applicable

- Whether the deceased was illegitimate or had any illegitimate children
- The choice of Controlling Probate Registry (or one of its interview venues) where you would like to be interviewed

### FORM IHT205: The Return of Estate Information

This form is used for small estates with a gross value of either less than the inheritance tax threshold, or estates worth less than £1,000,000, where there is no inheritance tax to pay because of spouse, civil partner or charity exemption.

#### In this form, the following information will be requested:

- If the deceased made gifts totalling more than £3,000 per year in the seven years prior to the date of death
- If the deceased gave up the right to benefit from assets held in trust within seven years of the date of death
- If the deceased made a gift, but continued to benefit from all or part of the gift (for example, the deceased gifted their home to a child but continued to live in it)
- If the deceased had benefited from assets held in trust
- If the deceased owned or benefited from assets held abroad
- If the deceased held any life assurance policies
- If the deceased's had any pension policies
- The gross value of the deceased's assets including cash and money held in bank accounts and savings accounts

#### Details will also be requested about:

- Personal goods
- Stocks and shares
- Insurance policies
- Money owed to the deceased
- Business interests
- Land and property owned by the deceased
- Gifts and lifetime transfers
- Assets held in trust for the deceased

When you have completed all the necessary forms, make copies of all of them and send them to the Probate Registry together with the original Will and the deceased's death certificate. You should also make copies of the Will and the death certificate for your own records. If you cannot deliver these documents in person you can send them by registered post.

## Attending the Probate Registry interview

On the PA1 you will have been asked at which Registry you would like to be interviewed. A few weeks after sending off the forms, you will be sent a date and time for an interview at the Registry to swear the Oath; all the Personal Representatives must attend this interview. Remember to take your paperwork with you in case you need to support your workings.

### Swearing the Oath

When the forms are complete and the Registry has all the information they require, you will be asked to sign the accounts and swear the executor's or administrator's oath.

By swearing this Oath you are promising that all the information you have submitted is accurate and truthful, and that you will carry out your duty to distribute the estate in accordance with the Will or intestacy rules within a reasonable timeframe. You will be asked to sign the Will, and if applicable to submit the estate accounts when the administration of the estate is complete. The original Grant and the Will become public documents and will be kept at the Registry. They may be viewed by members of the public on payment of a small fee.

The current fees for probate are £215 for probate and 50p for each sealed official copy of the Grant if purchased at the same time. The fees must be paid at the Registry, and just as with the certified copy of the death certificate it is a good idea to request a certified copy of the Grant for each asset holder in order to gather in the funds of the estate. If this fee is paid by one of the Personal Representatives it can be recovered later from the estate as an administration expense.

# 4

## Chapter Four

---

### What to do when you have received the Grant

#### Collection and distribution of the estate

As well as collecting the assets of the estate, the Grant also gives you the authority to sell the estate's assets to pay any debts and to distribute the remainder of the estate in accordance with the Will or the rules of intestacy. This should be a straightforward procedure as you have already obtained valuations for everything you need to sell, and all the asset holders will be ready to release funds on receipt of a copy of probate.

*There are letter templates for you to use in chapter nine*

#### Advertisement for creditors/ unknown beneficiaries

If you are concerned that there may be creditors of the estate unknown to you or there are unknown beneficiaries, it is recommended that you put an advertisement for creditors/beneficiaries in the London Gazette and a local paper. In law, creditors/beneficiaries have two months from the date of the advertisement in which to make a claim against the estate. If they do not contact the Personal Representative within the two month period and at the time of distribution then the Personal Representative can distribute the estate to the beneficiaries without any concern that he or she will be personally responsible for any funds due to those creditors/beneficiaries who make themselves known after that two month period.

#### Claims against the estate

You should be cautious of distributing the estate if you believe that a member of the deceased's family or the deceased's partner may bring a claim for provision from the estate. Under the Inheritance (Provision for Family and Dependants) Act 1975, such claims can be made against the estate in the first six months after probate has been granted.

#### Paying the debts

When you are paying off debts, such as credit card loans or household bills, remember to ask for a full and final receipt of settlement as you will need this for your final accounts.

#### Distributing the estate to the beneficiaries

When you hand out any gifts or legacies you should ask the beneficiaries to sign a receipt – there is an example in chapter nine. If a beneficiary is under the age of 18 a parent or guardian should be asked to sign for them. As explained in the introduction, if a trust has been created, this is outside the scope of this guide and we recommend that you ask for professional advice.

## Preparing the estate accounts

The financial information that you have collated since the date of death now needs to be put into an organised report and approved by the Personal Representatives.

*There is an example of how to lay out the estate accounts in chapter nine*

The accounts must include a summary of the estate with the following sections to consist of:

- Assets at the date of death
- Liabilities at the date of death
- Income received during the period of administration
- Changes in asset value, i.e. an increase in a property price
- Administrative expenses incurred during the period of administration
- Distribution of legacies and the residue to beneficiaries

You must send a copy of the accounts to each of the Personal Representatives for their approval. Ask them to sign and return them to you. When the accounts have been agreed there may be some money remaining in the Personal Representative's bank account, which can now be distributed and the account closed. You must retain all the paperwork for at least 12 years following the final distribution to the beneficiaries.

# 5

## Chapter Five

---

More complex  
topics

**There are some occasions when you may need to seek professional help. This includes the sale or transfer of property, including tenancy agreements and taxes, such as inheritance tax, capital gains tax and income tax.**

## Property

### Sole ownership

If the deceased owned a property in their name only, it is referred to as sole ownership. In this case, property will be left to the person the deceased wished to leave it to under the terms of their Will, or whoever is entitled to the property under the rules of intestacy.

### Joint ownership

When two or more people own a property together, it can be held in one of two ways; 'joint tenants' or 'tenants in common'.

- **Joint tenants**

If two or more people own a property as 'joint tenants' it means that when one of them dies the deceased's half share passes automatically to the surviving owner(s), regardless of the terms of the Will or rules of intestacy. It is not necessary to obtain a Grant where property is held jointly in this way.

- **Tenants in common**

If a property is held by two or more people as 'tenants in common' then the deceased's share of the property does not pass automatically to the surviving owners, but remains as part of the deceased's estate to be distributed as they wished in their Will or under the rules of intestacy. This arrangement is more usual in second marriages or civil partnerships and between partners. It is always necessary to obtain a Grant where property is held in this way.

### Dealing with the mortgage

If there is a mortgage on the property and a Life Assurance, Endowment, or Mortgage Protection policy which would pay the remaining mortgage in the event of the deceased's death, you should write to the provider asking for a final statement. If the property is to be inherited by a beneficiary and there is a mortgage still running against it, the mortgage provider will either require the mortgage to be paid immediately, or ask the beneficiary to take over the deceased's mortgage. If the property is to be sold the mortgage will be paid out of the sale of the property. If the deceased had property abroad it is advisable to take professional advice as the rules regarding ownership, valuation and title deeds differs throughout the world.

### Land Registry

If there is no mortgage on a property and it is to be transferred to a beneficiary, you should contact the Land Registry who will send you a form to complete. You can download the form at [www.landreg.gov.uk](http://www.landreg.gov.uk). The form must be witnessed and signed by the Personal Representatives and the beneficiary, and returned to the Land Registry with a fee and a copy of the Grant. Please contact the Land Registry for more information.

### Property valuation

An open market valuation, which does not need to be professional, is required in all cases even if the estate is non-taxpaying.

A reasonable estimate of the value of the property should be submitted. A professional valuation may be helpful if there is no other way of establishing the open market value. A professional valuation is recommended if it is likely that the total value of the estate is close to the inheritance tax threshold as these estates are often investigated by HMRC.

## Income tax

### Notifying HMRC

As a Personal Representative, one of the first things you must do is to write to HMRC notifying them of the deceased's date of death, quoting the deceased's tax reference and National Insurance number, and asking if the estate will owe or be owed any outstanding tax on behalf of the deceased. You may need to complete Form R27 which contains questions about the deceased's income tax situation. Completion of this form will help HMRC to determine the deceased's tax position.

### Income tax liability in the year up to the deceased's death

The Personal Representatives are entitled to claim the deceased's personal allowance for the tax year up to the deceased's death. Income that continues to be paid to the deceased after the death should not be included as this falls under income received during administration and will be taxed separately and no personal allowance will be available.

### Income tax liability after death

The estate may be issued with a tax return and assessed for income tax from the date of the deceased's death to the end of the administration. The Personal Representatives are not entitled to claim the deceased's personal allowance on behalf of the estate. Savings income, such as bank and building society interest, will be taxed at the starting rate. Other income, such as rents from property, will be taxed at the basic rate. Personal Representatives might also have to pay tax at the dividend rate on foreign dividend income.

### The income tax liability of beneficiaries

Income received by beneficiaries must be declared by them on their tax returns, although they will not have to pay tax on their inheritance if the tax has already been paid by the estate. Personal Representatives should issue each beneficiary with a Form R185 certificate, which will show the gross and net income of the estate and the tax that has already been deducted. This should be included by the beneficiary with their own Tax Return. If the beneficiary is a higher rate taxpayer they may be liable for more tax. Non-taxpayers can reclaim the tax.

## Capital gains tax (CGT)

### Capital gains/losses up to the date of death

If the deceased has disposed of (sold or given away) of any assets in the tax year in which death occurs and there has been a gain, then details of the gain must be included on the deceased's income tax return up to the date of death. Any tax liability must be calculated and the tax paid from the estate. If the deceased made allowable losses that exceed the chargeable gains for that tax year, the excess losses may be offset against any gains made by the deceased in the previous three tax years, beginning with the most recent year first. Losses made during the period before death cannot be offset against gains made by the executors during the administration of the estate.

**The current capital gains tax limit is £10,900 per tax year for 2013/14**

### Capital gains after death

The gains made by the estate itself will also be liable for tax during the period of administration from the date of death to the end of the distribution of the estate. If the deceased's assets are sold for more than their value at the date of the deceased's death, with a resulting gain of more than the annual allowance of £10,900 in one tax year, there may be capital gains tax to pay, which is charged at the rate of 28%. If it seems likely that there will be capital gains tax to pay, Personal Representatives should consult the beneficiaries, as it may be that the beneficiaries are non-taxpayers, or charities, in which case tax can be saved or reclaimed at a later date. If this is the case you should seek professional advice.

**Further guidance on tax is available on the HMRC website**

## Inheritance tax (IHT)

Inheritance tax is due if the value of the estate is more than the inheritance tax threshold or 'nil rate band'.

- **The nil rate band**  
Inheritance tax is not due on the first £325,000 of the value of the estate, as it is taxed at 0%.
- **The taxable band**  
This band applies to the remaining value of the estate over £325,000.

### Estates over the IHT threshold

If the value of the estate is over £325,000, you may need to complete a Form IHT400, and this must be sent to HMRC Inheritance Tax office. Form IHT400 may not need to be completed in all cases, particularly where there is no inheritance tax to pay, for example because the estate passes to the surviving spouse, civil partner or charity.

If form IHT400 is required, you will need to send this to HMRC with any schedules, including form IHT421, and wait for them to return the stamped IHT421. IHT421 must be sent to the Registry with any Will and the death certificate.

**The inheritance tax threshold is currently £325,000**

### Exemptions for married couples and civil partners

If the deceased was married or in a registered civil partnership at the time of death, anything passing to the surviving spouse or civil partner is exempt from inheritance tax. Also, the unused tax allowance of a previously deceased spouse can be carried forward and used on the death of the survivor. You should seek professional advice in this instance, as you may

need to provide evidence of the administration of the previously deceased spouse's estate.

### How to reduce the impact of inheritance tax on your estate

There are certain 'exemptions' which allow you to gift money or assets during your lifetime or in your Will without any inheritance tax being due:

- If your estate passes to your husband, wife or civil partner and you are both living in the UK there is no inheritance tax to pay – even if its value is above the current inheritance threshold
- Gifts between husbands and wives are always free of inheritance tax – as are donations to charities and political parties
- Most gifts made more than seven years before your death are exempt
- Certain other gifts, such as wedding gifts and gifts in anticipation of a civil partnership up to £5,000 (from parents to their children) are also exempt. Grandparents can hand over £2,500, and anyone else can give £1,000
- The first £3,000 given away each year is also exempt. If you do not use up the full exemption in one year you can carry it forward, but only for one year. This is known as the annual exemption
- Gifts of up to £250 to an unlimited number of different individuals are also tax-exempt, but you cannot use both this and the annual £3,000 exemption to give to the same person
- For married and civil partnership couples, provided that at least one partner was alive on 9th October 2007, there will be an additional 'transferable' nil rate band on the death of the second partner if the first didn't fully use his or her amount

HMRC needs to know about any gifts made by the deceased in the seven years prior to their death. In calculating this you will need to deduct the available annual allowance.

### Taper relief

If the deceased made a gift to an individual or trust in the seven years prior to death over the nil rate band, then that gift will not be subject to inheritance tax provided the deceased lived for seven years after the gift was made. If the deceased died within seven years of making the transfer, there is taper relief which is worked out as follows.

This is a relief on the tax due on the gift and is payable by the beneficiary of that gift.

Years between transfer and death	Taper relief	Proportion of tax payable
0-3	0%	100%
3-4	20%	80%
4-5	40%	60%
5-6	60%	40%
6-7	80%	20%



Below is an example of how taper relief works:

- The deceased made a gift of £365,000 on 20th August 2004 and died on 9th April 2009
- The inheritance tax threshold (nil rate band) at the date of death was £325,000
- The gift exceeds the threshold by £40,000
- Full rate of tax on the gift: 40% x £40,000 = £16,000
- The gift is within four to five years of the death, so there is taper relief of 40%
- Taper relief: £16,000 x 40% = £6,400
- Revised tax charge: £16,000 – £6,400 = £9,600

### Excepted estates

Whether an estate is excepted or not will determine which Inheritance Tax forms to fill in. If an estate is excepted, form IHT205 must be completed. If the estate is not excepted, IHT400 will be required. There are three types of excepted estates:

#### 1. Low value estates

These are estates where the gross value of the estate does not exceed the inheritance tax threshold.

#### 2. Exempt estates

These are estates where the gross value of the estate does not exceed £1,000,000 and there is no IHT payable if there is a spouse or civil partner and/or an absolute gift is given to a charity. Gifts made between spouses or civil partners are exempt from inheritance tax. However this exemption is limited to £55,000 if the deceased was living (domiciled) in the UK and their spouse or civil partner was not domiciled in the UK at the time of the transfer.

In addition to either of the above, the following conditions must also be met:

- The deceased died domiciled in the UK
- The gross value of the estate does not exceed the IHT threshold
- Any assets in trust are held in a single trust and the gross value does not exceed £150,000
- If there are any 'specified transfers' and their chargeable value does not exceed £150,000. Specified transfers are assets given away comprising cash, or quoted stocks and shares, or household and personal goods, or land and buildings (provided it is an outright gift between individuals)
- If the estate includes foreign assets, their gross value does not exceed £100,000
- If the deceased had not made a gift with reservation of benefit, when the gift is given with conditions attached or the person making the gift keeps back some benefit for themselves
- The deceased did not have an alternatively secured pension fund, either as the original scheme member or as the dependant or relevant dependant of the original scheme member

**Note: The values change from time to time and the limit in force at the date of death should be used**

#### 3. Foreign domiciliaries

These are estates when the gross value of the estate in the UK does not exceed £150,000 and the following conditions are met:

- The deceased died domiciled outside the UK (when their fixed or permanent home is outside the UK)
- The deceased was never domiciled in the UK (or treated as domiciled in the UK for inheritance tax purposes)

- The deceased's estate in the UK only comprised cash or quoted shares and securities passing under a Will or intestacy or by survivorship
- The deceased did not have an alternatively secured pension fund, either as the original scheme member or as the dependant or relevant dependant of the original scheme member.

To find out if the estate qualifies as an excepted estate, you can visit [www.hmrc.gov.uk](http://www.hmrc.gov.uk) and complete an online questionnaire.

### Form IHT400 – HMRC Account for Inheritance Tax

This is the form to complete where an estate is liable for inheritance tax. It is longer and more detailed than the IHT205 and requires you to complete an inventory of everything the deceased owned, and owed, at the date of death. If the estate is liable to inheritance tax and you do not wish to calculate the tax, HMRC will do this for you. Any claims for exemptions and reliefs are made within the IHT400 and not on a separate form.

Form IHT400 and any supplementary forms (see below) must be sent to HMRC Inheritance Tax office. This will include form IHT421. This will confirm the amount of tax you need to pay if any. Payment should be sent with the IHT400 and supplementary sheets. When the tax has been paid, HMRC will send the receipted IHT421 to you. When you have the IHT421, forward this to the probate registry with form PA1, the Will (if there is one) and the death certificate.

### Paying inheritance tax

Inheritance tax is payable six months from the end of the month in which the deceased died and interest will be charged on any unpaid tax after that date. Inheritance tax will need to be paid before the Grant has been received and therefore before the assets of the estate have been paid to you as the Personal Representative.

### There are several different ways to pay inheritance tax:

- If you wish to use funds from the estate to pay inheritance tax you may write to the asset holder directly
- A beneficiary may offer to lend the Personal Representatives the money at a lower rate than will be charged by a commercial lender
- The deceased's bank or building society may lend the money to the Personal Representatives if they are confident that the loan will be repaid. Money borrowed in this way must be set up as a loan not as an overdraft so that the interest can be subject to income tax relief
- National Savings will usually transfer funds from the deceased's savings certificates or premium bonds directly to HMRC
- On some types of assets such as houses, business, farmland and woodland, it is possible to pay inheritance tax in instalments spread over 10 years
- Some pension funds, friendly societies and life assurance companies may agree to release funds before receiving the Grant
- Executors as opposed to administrators are in the fortunate position of having the right to sell some of the deceased's assets before receiving probate. These might include the deceased's car, jewellery and personal items, or quoted investments



If Inheritance Tax is payable on an estate you should seek professional advice. This is because the Personal Representative is responsible for paying the tax.

#### HMRC review of inheritance tax

HMRC can review the liability of inheritance tax even after the Grant has been issued. If, for example, HMRC decides that an incorrect estimate has been given for the deceased's property, it has the right to go back to the Personal Representatives to ask for more money. If Personal Representatives discover further assets or realise that there are inaccuracies in any of their declarations after the Grant has been given, they can incur penalties if they do not inform HMRC immediately.

#### Appealing against inheritance tax

A tax calculation can be questioned at any time.

#### Relief on IHT paid

Inheritance tax relief can be claimed if a property is sold at a loss within 4 years of the death and if shares are sold at a loss within 1 year of the death.

#### Confirmation from HMRC

When HMRC are satisfied that the inheritance tax due has been paid (or no tax payable) they will write to confirm their enquiries are complete. This letter will be signed and stamped.

### Supplementary forms

There are many supplementary forms to accompany Form IHT400, including:

- IHT401 Domicile outside the United Kingdom
- IHT402 Claim to transfer unused nil rate band
- IHT403 Gifts and other transfers of value
- IHT404 Jointly owned assets
- IHT405 Houses, land, buildings and interests in land
- IHT406 Bank and Building Society accounts and National Savings & Investments
- IHT407 Household and personal goods
- IHT408 Household and personal goods donated to charity
- IHT409 Pensions
- IHT410 Life assurance and annuities
- IHT411 Listed stocks and shares
- IHT412 Unlisted stocks and shares and control holdings
- IHT413 Business and partnership interests and assets
- IHT414 Agricultural relief
- IHT415 Interest in another estate
- IHT416 Debts due to the estate
- IHT417 Foreign assets
- IHT418 Assets held in trust
- IHT419 Debts owed by the deceased
- IHT420 National Heritage assets, conditional exemption and offers in lieu of tax
- IHT421 Probate summary

# 6

## Chapter Six

### Scotland

## There are considerable differences between applying for 'confirmation' in Scotland and applying for 'probate' in England, Wales and Northern Ireland.

This is because Scotland has a separate judicial system and the differences between confirmation and probate are matters of law, upheld by the Scottish Courts.

### Registering the death

A death can be registered in either the district in which the deceased died, or the district in which they lived. In Scotland you have eight days to register the death. The registrar will need the names and occupations of the parents of the deceased, which are usually found on the deceased's birth certificate, and the information listed in chapter two.

### The Will

*In Scotland, the death must be registered within eight days*

In Scotland testators are not entirely free to leave their estate to any one they choose (see 'Legal Rights' below).

A valid Will, if executed on or after 1st August 1995, must conform to the Requirements of Writing (Scotland) Act 1995. The Act requires the document to be self proving, that is a written document, subscribed by the testator, signed on each separate page and witnessed on the last page by one identified person who is over 16 years old and has no mental impairment. However, a valid Will does not need to be self proving, provided it can be separately proven that the testator did sign the document and had capacity and testamentary intention.

### Executors

Executors must have their appointment confirmed by the Scottish Courts before they can begin the process of administering the estate.

An executor named in the Will is known as an executor-nominate. Unless an executor has chosen to decline office or is already deceased (known as predeceased), confirmation is obtained in favour of all the nominated executors.

Where there is no Will, or the nominated executor is unwilling or unable to accept office, or the testator was predeceased by the nominated executor then an application should be made to the Sheriff Court for the appointment of an executor, known as an executor-dative.

### Intestacy

The following rules apply if there is no Will, or the Will does not appoint an executor, or dispose of the entire estate, or the Will is deemed to be invalid.

*Issue means children or descendants of those children*

### Appointing an executor-dative

If there is no Will, or the Will fails to appoint an executor, a petition for the appointment of an executor-dative is lodged with the Sheriff Court according to the following order of priority:

1. Anyone who is entitled to inherit all or part of the estate
2. Next of kin (nearest collateral relation)
3. The creditors
4. Anyone entitled to a legacy from the estate, i.e. a 'specific legatee'
5. The procurator fiscal

If the deceased did not make a valid Will, the order of priority remains the same, except that the next of kin, or a surviving spouse or civil partner would have preference.

### A bond of caution

In the case of intestacy the executor-dative must obtain a 'bond of caution' from an insurance company. This is a guarantee made by the insurance company that the executor will distribute the estate in accordance with the rules of intestacy. It must be lodged with the inventory form C1 and relative form C5 with the Sheriff Court. If the surviving spouse's or civil partner's prior rights exhaust the estate, or there are no surviving issue then a bond of caution is not required (see 'Prior rights' below).

### Who inherits under the rules of intestacy?

After the funeral expenses, debts and liabilities have been paid, The Succession (Scotland) Act 1964 determines the distribution of an estate in the event of intestacy or partial intestacy.

### There are three categories:

#### 1. Prior rights

A surviving spouse or civil partner has a right to:

- The deceased's dwelling house (or a share) up to a value of £300,000
- A share of the furniture, furnishings etc up to a value of £24,000
- Cash up to a value of £75,000, if there are no surviving issue, or £42,000 if the deceased was survived by issue

#### 2. Legal rights

If the estate has not been exhausted by the satisfaction of the surviving spouse's or civil partner's prior rights then they are also entitled to claim legal rights in the estate. Legal rights only apply to the net moveable estate (money, investments and possessions) and do not extend to the heritable property (land or buildings).

A surviving spouse or civil partner can claim a one half share of the net moveable estate if there is no surviving issue; but only a one third share if there is surviving issue. Likewise, the surviving issue can claim a one half share of the net moveable estate between them, if there is no surviving spouse or civil partner; or a one third share if there is a surviving spouse or civil partner.

The surviving issue's share is known as legitim.

### Glossary at a glance:

- **Issue** means children or descendants of those children.
- **Collateral** means brothers and sisters of the deceased or of an ancestor of the deceased.
  - **Per capita** means equally per head.
  - **Per stirpes** means division is initially made at the level of the generation of the family, to which the beneficiary belongs, and then subdivided per capita.

### 3. The free estate

This is the remainder of the estate after the funeral expenses, debts and prior and legal rights have been settled. The order of those entitled is as follows:

1. A surviving spouse or civil partner if there are no descendants, no collateral or issue of same, and neither parent surviving – the whole free estate passes to the surviving spouse or civil partner.
2. A surviving spouse or civil partner and children only – the whole free estate passes to the children.
3. A surviving spouse or civil partner and issue – the whole free estate passes to the issue.
4. A surviving spouse or civil partner and grandchildren only – the whole free estate passes to grandchildren.
5. Children only – the whole free estate passes to the children equally per capita.

6. Issue – the whole free estate passes to the children per capita and the grandchildren per stirpes.
7. Grandchildren only – the whole free estate passes to the grandchildren per capita.
8. Surviving spouse or civil partner, father and/or mother, and brothers and sisters – the free estate passes half equally to the parents equally or to the survivor and half to the brothers and sisters per capita.

The list continues and is set out in detail in the Succession (Scotland Act) 1964.

### Assets

The deceased's estate is referred to as either heritable property or moveable estate. Heritable property is land or buildings, and moveable estate is money, investments and possessions.

Heritable property may be owned solely, jointly or the title may contain a survivorship clause. If the property is owned solely or jointly, the executor is required to obtain confirmation to be able to transfer the title to a beneficiary. If there is a survivorship clause, the title of the property automatically passes to the surviving owner and an extract of the death certificate should be placed with the title deeds.

The title of heritable property can be transferred to a beneficiary by means of a disposition, or by attaching a signed document to the confirmation (or to a certificate of confirmation).

### Confirmation forms

Confirmation (the Scottish equivalent of 'probate') is obtained by submitting an inventory form C1 and relative form C5 together with the necessary paperwork to the Sheriff Court.

Confirmation only needs to be applied for under the same conditions as in England and Wales, see chapter one.

#### Forms C1 and C5

The forms are available online at [www.hmrc.gov.uk](http://www.hmrc.gov.uk) or from the Sheriff Clerk's Office at the Sheriff Court, both free of charge.

The inventory form C1 fulfils the same function as the PA1 and the IHT205 forms in England and Wales. The C5 (Return of estate information) must be completed if the deceased died after 6th April 2004.

The C5 is used where the deceased was domiciled in the United Kingdom at the date of death and the gross value of the estate for inheritance tax is less than the excepted estate limit; or is less than £1,000,000 and after the deduction of liabilities and spouse, civil partner or charity exemption the estate is below the inheritance tax nil rate band threshold. In Scotland the C1 and C5 forms need only be signed by one of the nominated executors.

If an omission has been made, or error in the description or calculation of the returned estate, amendments can be made by completing a corrective inventory forms C4 and C4(S).

#### IHT400

The same rules apply in Scotland as in England and Wales with regard to the form IHT400. An IHT400 will have to be completed unless the estate is either exempt (see chapter five) or small (see chapter three).

### Estates valued at less than £36,000

If the total amount of the deceased's gross estate is £36,000 or less, this is known as a small estate. The Sheriff Clerk's staff will assist with the completion of the forms C1 and C5. There is a court fee for the provision of confirmation to the estate but there is no additional fee charged by the staff at the Sheriff Clerk's Office.

If the deceased left a Will, the executor named in the Will should attend the Sheriff Court; the Will may appoint more than one executor but only one is required to attend. All executors named in the Will, subject to their being willing and able to accept office, will be confirmed.

If there is no Will (intestacy) the executor would normally be the surviving spouse, civil partner or next of kin.

For intestate estates of this size it is not necessary to petition the court in order for the appointment of an executor-dative though a bond of caution is still required if you are not the surviving spouse or civil partner. The person applying for confirmation should attend the Sheriff Court for an interview with proof of their identity and full details of the deceased's estate. The Court will sometimes ask for two witnesses to swear an oath regarding the identity of the person applying for confirmation. For further details visit [www.scotcourts.gov.uk/library/civil/estates](http://www.scotcourts.gov.uk/library/civil/estates)

### Estates valued at over £36,000

Forms C1 and C5 are required to be completed. The completed forms C1 and C5 should be taken or sent to the Sheriff Court with the Will (where there is one) or a completed bond of caution (on intestacy) and a cheque for the court fee.

### Estates valued at over £325,000

Forms C1 and an IHT400 need to be completed, unless a form C5 can be used (see above) and sent, together with any required tax, to HMRC Inheritance Tax. HMRC Inheritance Tax will return the form C1 with their receipt stamped on it.

When the receipted C1 is received from HMRC Inheritance Tax, you should take it or send it to the Sheriff Court together with the Will (if there is one), or a bond of caution (on intestacy), and a cheque for the required fee.

If there is inheritance tax to pay it must be calculated at this stage and paid to 'HMRC'. Form C1 and the IHT400 must be sent, to HMRC Inheritance Tax in Edinburgh with the tax payment being sent to HMRC Inheritance Tax in Nottingham, the addresses are in chapter eight. Further assessment will be made, and a demand for more tax, or a refund, will follow at a later date.

# 7

## Chapter Seven

---

### Glossary of terms

**Abatement**

Where there are insufficient funds to settle all funeral expenses, testamentary and administration debts and legacies in full, the legacies must reduce or abate pro rata.

**Absolute interest**

An interest that the beneficiary is completely entitled to immediately, without any restrictions.

**Accumulation**

The retaining and re-investment of income, e.g. rental income or bank interest.

**Acquisition (probate value)**

The value at which either the Personal Representatives or the beneficiary acquires the assets.

**Adeem/ademption**

Either the complete or partial extinction of a specific bequest as a result of the deceased having gifted, sold or otherwise disposed of it during his lifetime, other than by revocation.

**Administration period**

The period between the date of death and the end of the administration.

**Administrator**

The legal representatives of a deceased person who has died without a Will. They are usually the closest relatives of the deceased.

**Advancement, power of**

The power given to pay capital monies held in trust to or for the benefit of a beneficiary of the trust.

**Affidavit**

Written statement by a person called 'the

Deponent', who signs it and swears or affirms to the truth of its contents.

**Agreed value**

The probate value as formally agreed by HMRC Inheritance Tax where inheritance tax is payable. HMRC may seek verification of the values from the District Valuer.

**Appointment, power of**

A power given by Will or deed to appoint a person or class of persons to inherit an interest.

**Apportionment**

The division of income in proportionate shares between certain beneficiaries, calculated on a daily basis.

**Appropriation**

The transfer of an asset to a beneficiary', instead of its sale proceeds, on account of a legacy or share of residue.

**Attorney**

A person appointed by another to act in his place.

**Beneficiary**

A person entitled to receive funds or property under a Will or intestacy.

**Bequest**

A gift of personal property, e.g. my ring.

**Bond of caution**

A bond of caution applies in Scotland where there is no Will. It is a guarantor's agreement that the executor will carry out his or her duties correctly. You would normally get one from an insurance company. It insures against losses in the handling of the estate.

**Call**

Demand upon the holder of partially paid shares to pay the balance.

**CGT**

Capital gains tax.

**Chose in action**

The right to bring a legal action to recover chattels, money or debt.

**Chain of representation**

The process where an Executor of a sole or last surviving Executor who has died without completing the administration of an estate, becomes the Executor of both estates.

**Clearance certificate/certificate of discharge**

A certificate issued by HMRC Inheritance Tax releasing a person liable to inheritance tax from paying further inheritance tax.

**Clearance Letter**

Letter sent by HMRC to the person who has signed the IHT400 confirming that all Inheritance Tax has been paid.

**Codicil**

A written amendment to a Will.

**Confirmation of the estate**

In Scotland, this is the legal document obtained from the Sheriff Court following a death. It is equivalent to the Grant of Probate obtained in England and Wales.

**Deed of Variation**

(see Instrument of Variation).

**Devise**

A gift of real property, e.g. a house.

**Disbursement**

A payment made to a third party by a professional, e.g. Funeral Director or solicitor.

**Estate**

All the assets and liabilities of a deceased person – such as property, shares, cash, savings and investments as well as outstanding debts.

**Estate accounts**

Accounts recording the financial transactions during the administration period.

**Estate in fee simple**

An absolute freehold interest.

**Excepted estate**

An estate where no inheritance tax is due if certain criteria are fulfilled.

**Executor**

A person appointed by a Will or codicil to administer the estate.

**Gift**

A gratuitous transfer of money or assets.

**Grant of Representation**

This is obtained from the Probate Registry (Sheriff Court in Scotland) following a death. The Grant will be made to the Personal Representatives where there is a Will and to the closest relatives where there is no Will. This document is called a Grant of Probate ('confirmation' in Scotland) where there is a Will and a Grant of Letters of Administration where there is no Will. A deceased person's estate can be dealt with once the Grant of Representation has been obtained.

**HMRC Inheritance Tax**

The division of HMRC which deals with all aspects of inheritance tax, capital transfer tax and estate duty. Formerly known as the Capital Taxes office.

**Inheritance tax (IHT)**

The tax paid by the estate of the deceased when that person dies.

**In-gather**

This is the term used in Scotland for the process of sending out the confirmation to claim all the assets that are due to the deceased's estate.

**Insolvent**

An estate is insolvent if the assets are insufficient to pay all funeral, testamentary and administration expenses and debts.

**Instrument of variation (also called a Deed of Variation)**

Enables beneficiaries of a deceased's estate to alter the distribution of the estate to reflect family circumstances and possibly save future inheritance tax.

**Intestacy**

The situation where a person dies without making a Will fully disposing of all his assets. The administration of an 'intestate' estate is governed by the Administration of Estates Act 1925.

**Issue**

Children, grandchildren or remoter lineal descendants.

**Legacy**

A gift in a Will; this could be money, chattels or property.

**Legacy/bequest/devise**

The estate capable of being transferred or conveyed at common law.

**Letters of administration**

If the deceased died 'intestate' i.e. leaving no Will, or if the Will is invalid for any reason, the Grant is called a 'Letters of Administration' and is sometimes referred to as 'simple administration'.

**Letters of Administration with Will Annexed**

If the deceased left a Will, but did not appoint any Executors or all of the Executors are unable or unwilling to act or the Will does not dispose of all of the deceased's assets, then the Grant is called 'Letters of Administration with Will Annexed'.

**Nil rate band**

This is the value of an estate that is not subject to Inheritance Tax. Any value above this amount is subject to Inheritance Tax.

**Oath**

Written statement by a person called 'the Deponent', who signs it and swears or affirms to the truth of its contents.

**Personal chattels**

These are Personal Possessions. Does not include any chattels used at death for business purposes and any money or securities for money.

**Personal Representative**

An executor or administrator.

**Power of attorney**

Formal deed by which one person appoints another to act on his behalf or represent him.

**Power reserved**

If an Executor does not wish to take the Grant now he can reserve power to take the Grant at a later date.

**Renouncing probate**

If a Personal Representative does not wish to act and he has not intermeddled in the estate he can reject his appointment by renouncing. This must be in writing.

**Residuary beneficiary**

The person entitled to the whole or part of the deceased's estate after the payment of all debts, funeral and testamentary expenses and legacies.

**Residuary estate/residue**

The remainder of the estate after payment of all funeral expenses, any Inheritance Tax, liabilities, administration expenses and legacies.

**Solvent**

An estate is solvent where the assets are sufficient to pay funeral, testamentary and administration expenses and debts.

**Specific legacy**

This is a gift of a particular item of the deceased's estate (e.g. my grandfather clock or my house).

**Spouse**

Husband or wife at the date of death.

**Spouse, civil partner or charitable exemption**

Any gifts made to spouses, civil partners or charities are exempt from inheritance tax.

**Testate**

Dying, leaving a Will.

**Testator/Testatrix**

Deceased who left a Will.

**Trustee**

Person who is holding assets on trust.

**Vested interest**

Right to immediate or future entitlement.



# 8

## Chapter Eight

---

### Useful contacts

#### Bereavement Advice Centre

Practical advice on what needs to be done when someone dies  
Tel: 0800 634 9494  
[www.bereavementadvice.org](http://www.bereavementadvice.org)

#### Department for Work and Pensions (DWP) Bereavement Service – England, Wales and Scotland

Tel: 0845 606 0265 (English speakers)  
Tel: 0845 606 0275 (Welsh speakers)  
Information about all DWP pensions and benefits can be found at [www.direct.gov.uk](http://www.direct.gov.uk)

#### HM Court Service

For information about the probate service:  
[www.hmcourts-service.gov.uk/cms/wills1.htm](http://www.hmcourts-service.gov.uk/cms/wills1.htm)

#### HMRC

For probate enquiries and forms to download:  
[www.hmrc.gov.uk/cto/pa1.htm](http://www.hmrc.gov.uk/cto/pa1.htm)  
Has details and forms for both probate in England & Wales and confirmation in Scotland  
Probate and Inheritance tax helpline  
0845 302 0900  
To find your local office for tax enquiries:  
[www.hmrc.gov.uk/enq/index.htm](http://www.hmrc.gov.uk/enq/index.htm)

#### The Principal Probate Registry

First Avenue House  
42-49 High Holborn  
London  
WC1V 6NP  
Tel: 0207 947 6939

HMRC probate and inheritance tax helpline:  
0845 302 0900

To find your local probate registry  
[www.justice.gov.uk/courts/probate/probate-registries](http://www.justice.gov.uk/courts/probate/probate-registries)

#### Scottish Court Service

Information from the Scottish Court Service on confirmation can be found here [www.scotcourts.gov.uk](http://www.scotcourts.gov.uk) and then write confirmation in the site search box  
Contact details for the Scottish Court Service can be found here: [http://www.scotcourts.gov.uk/you\\_and\\_us/contacts.asp](http://www.scotcourts.gov.uk/you_and_us/contacts.asp) including the location of your local Sheriff Court

For registering land in The Books of Council and Session:

#### The Keeper of the Registers of Scotland

Meadow Bank House  
153 London Road  
Edinburgh  
EH8 7AU  
Tel: 0845 607 0161

# 9

## Chapter Nine

### Sample templates

#### Letter to asset holder informing them of the death and requesting information

1 Sample Street  
Sample Town  
AB1 2CD

Asset holder name  
100 Sample Street  
Sample Town  
AB1 2CD

Date:

Dear Sirs

**Re:** Thomas Ian Jackson **deceased**

**Address:** 1 Sample Street, Sample Town AB1 2CD

**Date of death:** DD Month YYYY

**Account/reference number:** 12345678

I am one of the Personal Representatives for the above named deceased and enclose a death certificate for registration and return. As the deceased held an account(s) with you, I would be grateful if you could supply me with the following information regarding the deceased's accounts:

- Account number and type of account
- Value of the holding at the date of death
- Details of any existing direct debits or standing orders set up on the account. If the account is in sole name, please cancel all direct debits and standing orders. For those in joint names, I will instruct you separately regarding any changes to them
- If the account is in joint names, please provide the name and address of the joint holder

#### Interest

- Value of accrued but un-credited interest at the date of death: £
- Value of the interest gained between 6 April and the date of death: £

#### Tax

- If tax was deducted, please enclose the tax deduction certificate to the date of death or the manual figures. Please forward a withdrawal form to me if you require one. I will be applying for a Grant of Representation. Once this is obtained, I will send it to you so that the assets can be released.

I look forward to hearing from you and thank you in advance for your co-operation.

Yours faithfully

Jane Jackson

Enclosure:

1. Death certificate

## Letter to liability holder informing them of the death and requesting information

1 Sample Street  
Sample Town  
AB1 2CD

Liability holder name  
100 Sample Street  
Sample Town  
AB1 2CD

Date:

Dear Sirs

**Re:** Thomas Ian Jackson **deceased**

**Address:** 1 Sample Street, Sample Town AB1 2CD

**Date of death:** DD Month YYYY

**Account/reference number:** 12345678

I am one of the Personal Representatives for the above named deceased and enclose a death certificate for registration and return. I will be applying for a Grant of Representation. Once this is obtained, I will be able to settle any outstanding liability. I would be grateful if you could supply me with the following information:

- Please confirm the balance of the above account at the date of death
- If the account is in joint names, please provide the name and address of the joint holder
- If the account is in credit, please confirm the amount
- If the account is in debit, please confirm the amount and the name and address details of the cheque payee

Please forward a withdrawal form to me if you require one. Once I have obtained the Grant of Representation, I will send it to you so that the assets can be released.

If you require a claim form to be completed, please could you forward one to me.

Thank you in advance for your co-operation.

Yours faithfully

Jane Jackson

Enclosure:

1. Death certificate

## Letter to asset holder enclosing the Grant and requesting the release of funds

1 Sample Street  
Sample Town  
AB1 2CD

Asset holder name  
100 Sample Street  
Sample Town  
AB1 2CD

Date:

Dear Sirs

**Re:** Thomas Ian Jackson **deceased**

**Address:** 1 Sample Street, Sample Town AB1 2CD

**Date of death:** DD Month YYYY

**Account/reference number:** 12345678

Further to our previous correspondence please find enclosed the Grant of Representation for registration and return. Please close the above account and forward any monies due to the estate. The payment should be made by cheque, payable to Estate of Thomas Ian Jackson Deceased and posted to the above address.

If applicable, please provide a closing statement with:

- A list of transactions of the account showing both the date of death and date of closure balances
- All transactions in-between these dates
- Appropriate tax deduction certificates for the period 6 April to the date of death and for the period from the date of death to the date of closure

Yours faithfully

Jane Jackson

Enclosure:

1. Death certificate

## Letter to liability holder enclosing payment

1 Sample Street  
Sample Town  
AB1 2CD

Liability holder name  
100 Sample Street  
Sample Town  
AB1 2CD

Date:

Dear Sirs

**Re:** Thomas Ian Jackson **deceased**

**Address:** 1 Sample Street, Sample Town AB1 2CD

**Date of death:** DD Month YYYY

**Account/reference number:** 12345678

Please find enclosed a cheque for £123.45 as payment of the outstanding amount for the above account which can now be closed.

Yours faithfully

Jane Jackson

Enclosure:

1. Death certificate

## Estate Accounts Summary

Relating to the late Thomas Ian Jackson

Who died on DD Month YYYY

1. Mr Thomas Ian Jackson late of 1 Sample Street, Sample Town, AB1 2CD made his Will and Testament on DD Month YYYY.
2. Probate was granted out of the Sample Town District Registry on DD Month YYYY.
3. The executors were:
  - Jane Jackson, 1 Sample Street, Sample Town, AB1 2CD
  - Henry Jones, 1 Sample Street, Sample Town, AB1 2CD
4. By his Will the deceased gave:

Pecuniary legacies:

  - £1,000 to Judy Davies
  - £2,000 to David Shaw

Specific legacies:

  - Steinway piano to Emma Richardson

Residue of the estate: to Jane Jackson

## Capital Account

### Relating to the late Thomas Ian Jackson

Assets	£	£
1 Sample Street, Sample Town		
Probate value	£184,000.00	
Net proceeds of sale		£179,500.00
Bank – account no. 12345678	£7,762.50	
Interest to date of death	£189.00	£7,951.50
Bank – account no. 87654321	£3,587.89	
Interest to date of death	£124.50	£3,712.38
Building Society		£472.00
Cash		£245.83
Company X ord 25p shares	£5,980.33	
Dividend due to date of death	£350.00	£6,330.33
Company X ord 25p shares	£2,689.35	
Dividend due to date of death	£124.00	£2,813.35
Contents of house and personal effects		£5,200.00
Steinway piano		£3,000.00
<b>Gross Estate</b>		<b>£209,225.39</b>
<b>Liabilities</b>	<b>£</b>	<b>£</b>
British Gas	(125.00)	
Barclaycard	(439.22)	
Council tax	(98.00)	
Mortgage – 29 King Street	(14,575.00)	
<b>Total:</b>	<b>(15,237.22)</b>	
<b>Net Estate/Residue:</b>	<b>193,988.17</b>	
<b>Administration expenses</b>	<b>£</b>	<b>£</b>
Funeral Directors		(2,650.00)
Probate Registry fee		(215.00)
Executor's expenses		(127.50)
Household contents valuation	(135.00)	
Mortgage interest on 29 King Street		
Since date of death	(1,350.00)	
Estate agent fee –		
Sale of 29 King Street	(390.00)	
<b>Total:</b>	<b>(4,867.50)</b>	

## Estate income

Tax year DD/MM/YY (date of death) – 05/04/YYYY

Interest received	£	£
Bank – account no. 2053024	74.50	
Bank – account no. 9702184	39.00	
Dividends received £		
Bank ord 25p shares	175.00	
Bank ord 50p shares	57.00	
<b>Total:</b>	<b>345.50</b>	

Estate account summary	£	£
Value of assets at date of death		209,225.39
Estate income since date of death		345.50
Less liabilities at date of death	(15,237.22)	
Less administration expenses	(4,867.50)	
		(19,985.72)
<b>Net Estate:</b>		<b>189,704.17</b>

Distribution summary	£	£
<b>Pecuniary legacies</b>		
Judy Davies		1,000.00
David Shaw		2,000.00
		(3,000.00)

Specific legacies	£	£
Emma Richardson – Steinway Piano		(3,000.00)
<b>Residue of the estate</b>		<b>183,704.17</b>
Jane Jackson (100%) balance due		183,704.17

## Letter to beneficiary with the inheritance payment

Print two copies



1 Sample Street  
Sample Town  
AB1 2CD

Judy Davies  
12 Any Street  
Sample Town  
AB1 2CD

Date:

Dear Judy

**Re:** Thomas Ian Jackson **deceased**

I am pleased to advise that we have now completed the administration of Thomas Ian Jackson's estate and I enclose a cheque for £1,000 representing the amount of the inheritance due to you.

I would be grateful if you would countersign and return the enclosed copy of this letter to acknowledge the safe receipt of your cheque.

Yours sincerely

Jane Jackson

Enclosure:

1. Cheque for £1,000
2. Receipt of inheritance payment

Signed in acknowledgment of payment:

Signature .....

Print name ..... Date .....

Notes

Large green area for notes.





Notes

A large, empty light green rectangular area intended for taking notes.

**Any questions?**  
**Call us on 0800 856 1408**

Simplify Channel Limited. Registered office: 1 Angel Square, Manchester M60 0AG.  
Registered in England and Wales, no: 08249813.