

## Grant of Probate in Northern Ireland – Lastingpost.com

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### Introduction

The law and procedure relating to probate differs in different parts of the United Kingdom. The information in this section relates to obtaining a Grant of Probate in Northern Ireland.

### What is a Grant of Probate?

After a person's death, all their assets, including their bank and building society accounts, are automatically frozen. This is the case whether or not they left a Will.

If a person left a Will, the people appointed as Executors in the Will must apply to the Probate Registry for a Grant of Probate. This Grant gives them the authority to deal with or "administer" all the property and other assets belonging to the person who has died.

As part of the application, the Executors will need to provide to the Probate Registry a valuation of the deceased's assets. Probate will not usually be granted until all or some of any Inheritance Tax that is due has been paid.

Only when the Grant of Probate is made, are the assets unfrozen and the Executors can then distribute them in accordance with the deceased's wishes as set out in their Will.

### Is a Grant Always Required?

The Executors will not, however, need to apply for Probate if everything the deceased owned was held in joint names with their husband or wife or if their only assets were Bank or Building Society Accounts that contained less than £10,000. The Bank or Building Society may be prepared to pay the money to the person or people entitled to it without seeing the grant. In this case, the deceased's estate can be distributed immediately.

### Valuation Process

The Executors need to collect details of all the property and all the debts belonging to the deceased.

The property will include any house, car, furniture, savings, life insurance, policies, personal possessions, jewellery and anything capable of being valued and of being transferred to one person to another. Account will also need to be taken of certain assets that the deceased gave away during the seven years before they died.

The liabilities may include a mortgage, outstanding bills, etc and will also include the funeral expenses.

For help in valuing the deceased's estate, please look at our PDF file. This file is located in the Valuation Process part of the "If there is a Will" section of the Web-Site.

Unless the deceased's estate is very simple and Probate is not required, the Executors should consider appointing a Solicitor for the application to the Probate Registry and for help administering the estate.

To find a Solicitor in your area of Northern Ireland who specialises in Probate work, Please go to <http://www.lawsoc-ni.org/cgi-bin/findafirm>

## **Application to the Probate Registry**

When the valuation has been completed, the Executors must swear an affidavit or oath before a Solicitor.

In the oath, the Executors must confirm that they are appointed by the Will. They must give the value of the gross and net estate of the deceased and they must swear that they will ensure that the estate will be distributed in accordance to the law and the terms of the Will.

It will also be necessary to submit an Inland Revenue Account setting out all the assets and liabilities in the estate. However, the HMRC (HM Revenue & Customs) allows a large number of low value and other estates where no inheritance tax is payable for various reasons to be "excepted estates." In these cases, a brief return of information about the estate as a whole is all that is required.

When the oath has been completed and sworn, the application to the Probate Registry can be made for a Grant of Probate. The Executors can apply in person or instruct a Solicitor to apply on their behalf. At least seven days must have passed from the date of death to the date of the appointment at the Probate Registry.

The application must be made to the appropriate Registry. If the deceased had a fixed home in counties of Fermanagh, Londonderry or Tyrone, the application for a grant can be made at either the following addresses:

Probate Office, Royal Courts of Justice, Chichester Street, Belfast, BT1 3JF

The District Probate Registry, The Courthouse, Bishop Street, Londonderry, BT48 6PY  
If the deceased lived outside these three counties, the application must be made at the Belfast office.

## **How Long will it Take?**

As each person's circumstances are different, it is difficult to predict with any certainty how long it will take to firstly obtain the Grant of Probate and to then administer the estate. As a rough guide, it should take six to nine months for an estate that includes property.

The reason why the process is slow is that it is normally not possible to collect the assets (apart from joint accounts which automatically pass to the survivor) or indeed to pay the liabilities of the estate out of the assets until the Grant has been obtained. This is because all official bodies including Banks, Building Societies, Stockbrokers and Estate Agents will want to see sight of the Grant before proceeding with any sales or transfers to the Executors.

Very often, estates which appear on first sight to be simple prove to be complicated. Conversely, a large estate may prove to be straightforward and problem free.

Typical factors which can create problems and complicate the process include:

1. The need to go through and sort out numerous old papers;
  2. Searching for details of lifetime gifts which the deceased may have made;
  3. Difficulty in realising assets or in settling tax or other liabilities;
  4. Difficulty in tracing beneficiaries or in dealing with beneficiaries who are under age;
  5. Foreign property and the need to liaise with foreign lawyers;
  6. Trusts in which the deceased had an interest; a
  7. Agricultural or business property, especially Lloyd's assets which can't be wound up for at least three years; and
  8. Agreeing the values of specific assets with the Inland Revenue.
- You should be aware that there may also be an opportunity for tax planning and the use of a Deed of Variation (by which the effect of the Will can be varied in order to reduce tax).

## **Final Winding Up**

Once all the assets have been collected and all the liabilities have been discharged, the net balance of the estate can be ascertained. This balance can then be distributed to the beneficiaries as dictated by the terms of the deceased's Will.

If the estate or its administration is particularly complex and therefore taking considerable time to sort out, it may be possible for the Executors to make interim distributions to beneficiaries before the final winding up.

When a Solicitor has been employed, they will usually prepare Estate Accounts setting out the full details of the administration of the estate.

The Solicitor's fee should be calculated in accordance with the Solicitors'

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Remuneration Order 1972. This provides that a Solicitor's remuneration for noncontentious (i.e. non-litigious matters should be fair and reasonable having regard to the circumstances of the case. The most important factor to be taken into account is the time they actually spent. Other factors such as the complexity of the estate, the skill involved and the need for urgency will also be taken into account.

## **Further Information**

For further information on obtaining a Grant of Probate in Northern Ireland, please go to [www.courtsni.gov.uk](http://www.courtsni.gov.uk)

For further information on Inheritance Tax, please go to [www.hmrc.gov.uk/cto/pa1.htm](http://www.hmrc.gov.uk/cto/pa1.htm)

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