



How to obtain probate in the Isle of Man

A guide for the applicant acting without an advocate

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1. General

How to obtain Probate

A guide for the applicant acting without an advocate

These notes are produced to help you obtain probate if you have decided you do not need to employ an advocate.

If you wish to apply in person please read all notes carefully.

What is probate?

When a person dies, someone has to deal with their “estate” (i.e. money, property and possessions) by collecting all the money, paying any debts and distributing the estate to those people entitled to it. (The estate belongs to the people named in the deceased’s will. If the deceased did not leave a will, it belongs to the widow or widower or relations, in accordance with the rules laid down by law.)

The deceased person may, by his/her will, have appointed someone to deal with the estate, who is called an “executor”. If he/she has not appointed an executor, or if the executor cannot or will not act, the High Court may appoint an “administrator” to deal with the estate.

If the deceased person has not made a will, i.e. has died “intestate”, then the Court may also appoint an administrator.

The executor appointed by the will may be confirmed in his position by the High Court: the document by which the Court does so is called a grant of “probate” of the will. The document by which the Court appoints an administrator is called a grant of “letters of administration”. Each document is called a “grant of representation” (sometimes the term “probate” is used loosely to refer to either kind of grant of representation).

In these notes the term “grant” is used to refer to either probate or letters of administration.

Why is a grant necessary?

Organisations holding money belonging to the estate (e.g. banks, building societies, life offices) need to know that the person to whom they pay the money is really entitled to have it. If they pay the wrong person, they may have to pay the money over again to the right person. A grant is proof that the person named in it is entitled to receive the money and distribute it to the persons to whom it belongs. The Court itself does not require the grant to be made.

Sometimes a grant is not needed.

You may wish to ask anyone holding the deceased's money whether they will release it without seeing a grant. If they agree, they may impose conditions. It is for you to decide which is the cheaper option. The following are examples of cases where a grant may not be needed:

- Some organisations may release money to you without a grant if the amount held is small and there are no complications. Among these are National Savings, insurance companies, building societies and certain pension funds.
- You will not usually need a grant when a house is held in joint names and it is clear that the house automatically becomes the property of the surviving owner. You should take the advice of an advocate if you are in doubt on this point.

You will need a grant to transfer or sell a house or other property held in the deceased's sole name. Do not advertise a house for sale too soon after the owner's death as a sale cannot be completed until you have obtained a grant.

Can I apply for a grant?

If the deceased left a will, the executor appointed by the deceased's will may, if he is aged 18 or over, apply for probate of the will. If the will appoints more than one executor, the Court will normally make a grant to all of them, unless any of them decides not to take a grant. If the executor is under 18, and no other executor over 18 is able or willing to take a grant, a grant will normally be made to his parents or guardian until he is 18.

If the deceased left a will but did not appoint an executor, or the executor cannot or will not act, then the person entitled to the residue of the estate, or any other beneficiary as the case may be, under the will may apply for letters of administration. Also a creditor of the estate, or a person who would be entitled to the estate if there were no will, may apply but you may need to seek legal advice if this is the case.

If the deceased did not leave a will, then letters of administration will normally be made to a person who is entitled to the estate or a share of the estate, under the rules of law governing distribution on "intestacy". In this case, notice of the application must be given to everyone who is entitled to share in the estate and is resident in the Isle of Man. If you are not sure whether you are entitled to share the estate, you may enquire at the General Registry, Isle of Man Courts of Justice, Deemsters Walk, Bucks Road, Douglas, Isle of Man IM1 3AR.

You may in certain circumstances apply on behalf of someone else, but you should send a note with your application explaining why he or she is not applying. The issue of a grant in this case may take longer and cost more.

If it is not possible to issue a grant to you, the Registry will explain the reasons.

2. Applications concerning the estate of Isle of Man residents

How do I apply for a grant where the deceased was an Isle of Man resident?

The basic stages for applying for a grant are set out below and explained later in greater detail:

- 1 obtain the application form
- 2 complete the application form
- 3 return it with a registry-issued certified copy of the death certificate and the original will (if applicable) to the General Registry
- 4 the application needs to be sworn before a Commissioner for Oaths. This can be done by an advocate or Justice of the Peace or at the General Registry.

We advise you to keep a copy of any documents you send with your form.

What forms are there?

There is only one form which will either have been enclosed with these notes or may be obtained from the General Registry. That is the probate application form which asks for details of the deceased and yourself as applicant.

A list of fees which are payable will be enclosed with the form. The amount of fee depends on the size of the estate.

How do I determine the value of the estate?

The form asks you to state the gross value of the estate of the deceased in the Isle of Man. You should try to obtain the full value of everything in the Isle of Man owned by the deceased or due to him from any source at the date of his death (whether or not it has already been received) including any interest or bonus which will be paid, except property nominated in favour of any person and joint property if the deceased's share passed by survivorship.

“Gross value” means the estimated price an item would fetch if sold at the date of the deceased's death. Stocks and shares should be valued at the price at which they were quoted on the Stock Exchange on the day of death.

Why might I have to attend the General Registry in person?

The purpose of attending the General Registry is to confirm the details you have given and to answer any queries you may have.

You will also be asked to sign a form of oath which is part of the application form, and to swear or affirm that the information you have given is true to the best of your knowledge, if you have not already done so elsewhere.

If your application is complicated, there may be additional documents to be signed, or you may be asked to contact other people (for example, a witness to the will) so that we can contact them to obtain their signatures to documents.

What happens next?

The grant will be prepared by the General Registry and sent to you by post, unless you state that you will collect it.

When you receive the grant you should show it to any person or organisation holding the deceased's money or property who has asked to see it. The money and property will then be released to you.

Important note

Documents supplied with applications, e.g. original will, death certificate etc., will be permanently retained by the General Registry and will be filed in the Deeds Registry, Deemsters Walk, Bucks Road, Douglas, Isle of Man, where they are available for public inspection after the grant has been issued.

3. Applications concerning the estate of non-residents

All the information contained in section 2 applies if the deceased died intestate.

It also applies if the deceased left a will but the application should then be supported by either -

- (a) the original will and a registry-issued certified copy of the death certificate; or
- (b) a copy of the Grant of Probate made in the place where the deceased died domiciled, together with a copy of the will, both sealed and certified by the issuing Registrar.

Any applicant from outside the Isle of Man must have an address for service within the Isle of Man to which subsequent correspondence will be sent. If there is no personal representative of the deceased in the Isle of Man, it is normally acceptable to use the address of the organisation in the Isle of Man with which the assets of the deceased are deposited. Applicants should check with the organisation first.

4. Responsibilities of the General Registry

The General Registry is responsible for making sure that an applicant is entitled to be given a grant, and that any will produced appears to be properly executed.

If there is any doubt as to whether the will left by the deceased is valid, or where it appears a will has been altered or amended, we may wish to interview at least one of the witnesses or request statements.

The General Registry has to prepare and to issue the grant itself.

Please note that the responsibility of the General Registry ends when the grant is issued. We are unable to assist you in any way with the administration of the estate.

These notes are produced by the General Registry to give general guidance only and should not be treated as a complete and authoritative statement of the law.