

Probate in the Isle of Man

What is Probate?

When a person dies, someone has to deal with their property, money and other possessions (their “estate”) and distribute it to those entitled. If the deceased has made a Will, the person(s) named in the Will as executor(s) will usually need to apply for a “grant of Probate” of the Will. A grant of Probate is the name given to the document issued by the Isle of Man Probate Registry (the “Probate Registry”) giving a legal right to the executor(s) of the Will to administer the estate of the deceased.

What if the deceased did not make a Will?

Where the deceased has not left a Will (or has left a Will but there are no executors named in it), a similar procedure to obtaining Probate is applicable, but instead the document is called “Letters of Administration” and appoints ‘administrators’ to deal with the estate of the deceased. If there is no Will, the deceased’s estate will be dealt with in accordance with legal rules which dictate who can deal with the estate and who may benefit from it. For the remainder of this guide, unless otherwise stated, all references to “Probate” include “Letters of Administration”.

Why is Probate necessary?

Banks and other financial organisations will usually require a copy of the grant of Probate before they will allow the executor(s) to deal with that particular asset. It is very important they know that they are paying out such assets to the correct person. If they were to pay out to the wrong person then there is a risk that they may have to pay the same amount again to the correct person in the future. A grant of Probate is their valid evidence that the person(s) named thereon is entitled to deal with that asset.

Please note that a grant of Probate is not required in every instance, for example if the estate is of a low value, or the entire estate was owned jointly with another person (e.g. a spouse) it usually passes to that person automatically. It is always worth checking with any applicable organisation (i.e. the bank) as to their requirements prior to making an application for Probate.

What if the deceased was domiciled outside the Isle of Man?

If the deceased died domiciled outside of the Isle of Man, but held assets in the Isle of Man, then a similar procedure applies in relation to Probate (whether or not the deceased left a Will). The Probate Registry will require a copy of the grant of Probate (or equivalent) issued out of the place where the deceased was domiciled, together with a copy of the Will (if applicable), both sealed and certified by the issuing Registrar.

Where such documentation is in a foreign language, the Probate Registry will also require an original notarised translation of that documentation into English.

What happens next?

At Dougherty Quinn we pride ourselves on being both pragmatic and sympathetic to our client's needs at what can be a very stressful time for them. We therefore aim to make the Probate procedure as cost and time effective as possible.

Our fees for obtaining a grant of Probate in the Isle of Man are usually between £500 to £750 plus VAT (if applicable) and disbursements. The main disbursement to be aware of is the Court filing fee, which is based on the gross value of the deceased's estate in the Isle of Man. The term 'gross value' in this context means the value of the asset without any deduction for debts, incumbrances or funeral expenses. The Court filing fee is detailed below and includes 1 copy of the grant of Probate:-

Gross value of estate in the Isle of Man	Court filing fee
Under £2,800	£1.40
Exceeds £2,800 but does not exceed £21,000	£46.00
Exceeds £21,000 but does not exceed £70,000	£147.00
Exceeds £70,000 but does not exceed £140,000	£291.00
Exceeds £140,000 but does not exceed £200,000	£487.00
Exceeds £200,000	£631.00

If you choose to instruct Dougherty Quinn to apply for Probate on your behalf we would require the following:-

1. where the deceased left a Will, the original Will of the deceased. If the deceased died domiciled outside the Isle of Man, we would require an original Court / District Registry sealed and certified copy of the grant of Probate and Will of the deceased (or equivalent testamentary documentation) issued out of the deceased's place of domicile, together with (if appropriate) a notarised translation of such documentation into English;
2. an original certified true copy of the death certificate of the deceased issued by the District Registry at which the death was registered;
3. evidence of the value of the deceased's estate in the Isle of Man;
4. confirmation of the domicile of the deceased (the Probate Registry may require some evidence of foreign law in the form of a short affidavit confirming the validity of any existing Will and confirmation that the person(s) entitled to the estate is duly

entitled under the relevant foreign law, however if we are obtaining Isle of Man probate further to a UK grant of Probate this is unlikely to be necessary); and

5. confirmation as to whether there are any beneficiaries of the estate of the deceased under the age of 18.

Once we have all of the relevant information, we will prepare an application which will need to be sworn by the applicant before a Commissioner for Oaths.

Provided that there are no complications, the Probate Registry usually issues the grant of Probate within 4 to 6 weeks from receipt of the application. Documents supplied with the Probate application will be permanently retained by the Probate Registry and will be filed where they will be available for public inspection after the grant of Probate has been issued.

This guide is only intended to read as a general overview of this area. Should you require any further information please contact Jodie Summers on 01624 632984 or jodie@dq.im

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