

PROBATE

PROCEDURE NOTES

KEVIN DONNELLY



PROBATE Procedure Notes

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*Chief Clerk,
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Preface

References to “the Rules” or “r.” are to the Non-Contentious Probate Rules 1987 unless otherwise indicated. The term “Registrar” denotes a Registrar of the Principal Registry or a district probate registrar unless the context suggests otherwise.

Any correspondence to the Principal Registry should be sent to the Receiver of Papers (if it is a covering letter with an application for a grant or resealing), to the Record Keeper (if the letter is a request for copies of a grant or for the amendment or revocation of a grant) or to the Chief Clerk of the Probate Department (if it is on any other aspect of probate) at the address given in section 1.4.3 below.

Correspondence to a district probate registry may be addressed to the District Probate Registrar or to the Chief Clerk. As from 1 August 1988 the central index and the index of caveats have been situated at the Leeds District Probate Registry.

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1. Introduction

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1.1 Introduction

- 1.1.1 The layout of this book is designed to enable the practitioner to apply for a grant in the estate of a deceased person on a step-by-step basis.
- 1.1.2 The chapters are arranged to coincide as nearly as possible with those in the 23rd edition of the *Probate Manual* (Waterlow, 1988) and there are references in the following chapters to various parts of that book.
- 1.1.3 The references to the *Probate Manual* are made mainly to enable the practitioner to find out further details on a particular subject outside the scope of this book, the purpose of which is to provide guidance in the basic type of application.
- 1.1.4 It should be possible to make an application armed with the will (if any), the correct form of oath and this book.
- 1.1.5 The following sections of this chapter set out the places in this book where details of a particular type of application will be found and the addresses where the applications can be made.

1.2 Types of application

- 1.2.1 There are four basic types of application for a grant of representation (or the equivalent):
- (a) Probate of the will
 - (b) Letters of administration (with will)
 - (c) Letters of administration
 - (d) Reseals
- 1.2.2 Details in respect of applications for probate of the will of a person who died domiciled in England and Wales are set out in Chapter 3 and Chapter 9 (trust corporations).
- 1.2.3 Applications for probate of the will are usually quite straightforward and there is therefore less reference in this book to this type of case. However, Chapter 7 section 7.5.2 (d) (foreign domicile) should be consulted in the event that the deceased died domiciled out of England and Wales leaving a will in English or Welsh.
- 1.2.4 Applications for letters of administration (with will) in the estates of persons who died domiciled in England and Wales are dealt with in Chapter 4. Further references will be found in Chapters 8 (minority interests and attorney grants), 9 (trust corporations), 10 (miscellaneous grants) and 11 (*commorientes*). Foreign domicile applications for letters of administration (with will) are dealt with in Chapter 7.
- 1.2.5 Applications for letters of administration in the estates of persons who died domiciled in England and Wales are dealt with in Chapter 5. Reference should also be made to the other chapters set out in section 1.2.4 above.
- 1.2.6 Reseals are dealt with in Chapter 12.
- 1.2.7 Reference to the contents page of each chapter will enable the relevant section to be located. Whenever possible, cross-references have been included in the sections.

1.3 General provisions

- 1.3.1 Applications (a) to (c) in section 1.2.1 above require an oath in support.
(r. 8(1))

- 1.3.2 The oath should be sworn or affirmed before a person authorised so to do.
(Secretary's Circular, 12 April 1967)
- 1.3.3 Some Notaries Public in certain circumstances are entitled to administer the oath in applications for grants of representation.
(Administration of Justice Act 1985 s. 65)
- 1.3.4 Justices of the Peace and Stipendiary Magistrates acting in their official capacity cannot administer the oath in applications for grants of representation.
- 1.3.5 A solicitor cannot administer the oath in proceedings in which he is acting or in which any partner of his firm is acting.
(Solicitors Act 1974 s. 81(2))
- 1.3.6 Oaths can be sworn out of England and Wales before anyone so entitled to do by the law of the place where the documents are sworn.
- 1.3.7 Evidence as to the entitlement to swear such oaths in respect of section 1.3.6. above may be required by the Registrar before the application can proceed.
- 1.3.8 If the deponent is serving in the armed forces abroad, it is possible for certain officers of his branch of the service to administer the oath.
(Emergency Laws (Miscellaneous Provisions) Act 1953 s. 10; Army Act 1955 s. 204; Air Force Act 1955 s. 204 (as amended by s. 19 Armed Forces Act 1981))

1.4 Where to make the grant application

- 1.4.1 Applications for grants of representation may be made at any of the registries or sub-registries in section 1.4.3 below.
- 1.4.2 There is no territorial jurisdiction in respect of making applications for grants governing at which registry or sub-registry the application may be made.
- 1.4.3 The addresses, telephone, and document exchange (DX) numbers of the registries and, where appropriate, sub-registries of the group are as follows:

Principal Registry of the Family
Division
Probate Department
Somerset House
Strand
London WC2R 1LP
Tel: (01) 936 7000 (Record Keeper)/
6983 (Probate Enquiries)
DX: 396 London Chancery Lane

Birmingham District Probate
Registry (Main Registry)
3rd Floor, Cavendish House
Waterloo Street
Birmingham B2 5PS
Tel: (021) 236 6263/4560

Stoke-on-Trent Sub-Registry
2nd Floor, Town Hall
Albion Street
Hanley
Stoke-on-Trent ST1 1QL
Tel: (0782) 23736

Brighton District Probate Registry
(Main Registry)
William Street
Brighton BN2 2LG
Tel: (0273) 684071
DX: 2734 Brighton 1

Maidstone Sub-Registry
The Law Courts
Barker Road
Maidstone ME18 8EW
Tel: (0622) 54966
DX: 4846 Maidstone

Bristol District Probate Registry
(Main Registry)
The Crescent Centre
Temple Back
Bristol BS1 6EP
Tel: (0272) 273915/24619

Bodmin Probate Sub-Registry
Market Street
Bodmin
Cornwall PL31 2JW
Tel: (0208) 72279

Exeter Probate Sub-Registry
Eastgate House
High Street
Exeter
Devon EX4 3JZ
Tel: (0392) 74515

Ipswich District Probate Registry
(Main Registry)
Level 3, Haven House
17 Lower Brook Street
Ipswich IP4 1DN
Tel: (0473) 53724
DX: 3279 Ipswich

Norwich Probate Sub-Registry
The Law Courts
Bishopgate
Norwich
Norfolk NR3 1UR
Tel: (0603) 761776
DX: 5202 Norwich

Peterborough Probate Sub-Registry
Clifton House
Broadway
Peterborough PE1 1SL
Tel: (0733) 62802
DX: 12327 Peterborough 1

Leeds District Probate Registry
(Main Registry)
3rd Floor
Coronet House
Queen Street
Leeds LS1 2BA
Tel: (0532) 431505
DX: 26451 Leeds Park Square

Lincoln Probate Sub-Registry
Mill House
Brayford Side North
Lincoln LN1 1YW
Tel: (0522) 23648
DX: 17701 Lincoln 2

Sheffield Probate Sub-Registry
The Court House
Castle Street
Sheffield S3 8LW
Tel: (0742) 729920
DX: 26054 Sheffield 2

Liverpool District Probate Registry
(Main Registry)
3rd Floor, India Buildings
Water Street
Liverpool L2 0QR
Tel: (051) 236 8264

Chester Probate Sub-Registry
5th Floor, Hamilton House
Hamilton Place
Chester CH1 2DA
Tel: (0244) 45082

Lancaster Probate Sub-Registry
Mitre House
Church Street
Lancaster LA1 1HE
Tel: (0524) 36625

The Probate Registry of Wales
(Main Registry)
49 Cardiff Road
Llandaff
Cardiff CF5 2YW
Tel: (0222) 562422

Bangor Probate Sub-Registry
1st Floor, Bron Castell
High Street
Bangor LL57 1YS
Tel: (0248) 362410

Carmarthen Probate Sub-Registry
14 King Street
Carmarthen
Dyfed SA31 1BL
Tel: (0267) 236238

Gloucester Probate Sub-Registry
3 Pitt Street
Gloucester GL1 2BJ
Tel: (0452) 22585

Manchester District Probate Registry
(Main Registry)
9th Floor, Astley House
23 Quay Street
Manchester M3 4AT
Tel: (061) 834 4319
DX: 14387 Manchester

Nottingham Probate Sub-Registry
Upper Ground Floor
Lambert House
Talbot Street
Nottingham NG1 5NS
Tel: (0602) 414288
DX: 10055 Nottingham

Newcastle-upon-Tyne District
Probate Registry
(Main Registry)
2nd Floor, Plummer House
Croft Street
Newcastle-upon-Tyne NE1 6ND
Tel: (091) 261 8383
DX: 61081 Newcastle-upon-Tyne

Carlisle Probate Sub-Registry
2 Victoria Place
Carlisle CA1 1ER
Tel: (0228) 21751
DX 63034 Carlisle

Middlesbrough Probate Sub-Registry
12/16 Woodlands Road
Middlesbrough TS1 3BE
Tel: (0642) 244770

York Probate Sub-Registry
 Duncome Place
 York YO1 2EA
 Tel: (0904) 624210
 DX 61543 York

Leicester Probate Sub-Registry
 Government Buildings
 Newarke Street
 Leicester LE1 5SE
 Tel: (0533) 546117
 DX: 10870 Leicester

Oxford District Probate Registry
 (Main Registry)
 10a New Road
 Oxford OX1 1LY
 Tel: (0865) 241163
 DX: 4337 Oxford

Winchester District Probate Registry
 (Main Registry)
 4th Floor, Cromwell House
 Andover Road
 Winchester
 Hampshire SO23 7EW
 Tel: (0962) 53046/63771
 DX: 2528 Winchester

1.5 Other addresses

1.5.1 It is sometimes necessary to contact other offices when making an application for a grant of representation.

1.5.2 Set out below are the addresses of other branches of the Supreme Court and Inland Revenue with whom it may be necessary to have dealings:

1.5.3 Capital Taxes Office: England and Wales

(a) General enquiries – Capital Taxes Office
 Minford House
 Rockley Road
 London W14 0DF
 Tel: 01-603 4622

(b) Payment of tax – Inland Revenue Finance Division
 Barrington Road
 Worthing
 West Sussex BN12 4SF
 Tel: (0903) 502525

(c) Control of accounts – Capital Taxes Office
 Minford House
 Rockley Road
 London W14 0DF
 Tel: 01-603 4622

1.5.4 Capital Taxes Office: Scotland

Capital Taxes Office
16 Picardy Place
Edinburgh EH1 3NB
Tel: 031-556 8511

1.5.5 Capital Taxes Office: Northern Ireland

Capital Taxes Office
Law Court Buildings
Chichester Street
Belfast BT1 3NU
Tel: (0232) 235111

1.5.6 The Treasury Solicitor:

The Treasury Solicitor (B.V.)
Queen Anne's Chambers
28 Broadway
London SW1H 9JS
Tel: 01-210 3117

1.5.7 Court of Protection:

The Court of Protection
25 Store Street
London WC1E 7BP
Tel: 01-636 6877

1.5.8 Public Trustee:

The Public Trustee Office
Stewart House
Kingsway
London WC2B 6JX
Tel: 01-405 4300

1.5.9 Grants of Representation – Scotland

- (a) Sheriff Clerk (Commissary Office)
16 North Bank Street
Edinburgh EH1 2NS
Tel: 031-226 7181
- (b) Sheriff Clerk of Glasgow and
Strathkelvin
County Buildings
149 Ingram Street
Glasgow G1 1SY