

Probate

Death is an inevitable and major event in anyone's life and has various consequences that are required to be managed appropriately by someone on behalf of the deceased person. This is where Probate comes in place and is a legal authority conferred to sort everything out and manages the estate, when someone dies. We at, "Not Just Law" will ensure that all the pending matters are carried out properly after a persons' demise.

What exactly is Probate?

In exact terms, Probate is the legal process executed to administer the estate of a deceased person. It involved resolving all sort of claims and distribution of property in accordance to the valid Will of the deceased. This term is used in context with applying for the right to manage the matters of the deceased. Simply put, Probate is responsible for sorting out all things after the death of a person.

How does it work?

Usually, a surrogate court is responsible for determining if the Will of the testator is valid. Then, a probate construes the instructions stated by the deceased person along with deciding upon the executor as the personal representative of the estate. A probate also arbitrates the interests of people who are likely to have claims against the estate.

What is the benefit of Probate?

The major benefit of probate is that this legal process is entirely supervised by the court and all the proceedings will be carried out according to the prescribe probate laws only. It will take care of all important matters like validating a person's will, assembling the assets, payment of debts, taxes, and other expenditures associated with the management and administration of will.

Probate will ensure that all the remaining assets of a deceased person are distributed properly to the persons entitled for it, according to your wishes. This is extremely important, when there are claims of creditors or there are chances of someone challenging the will and related disputes.

Who handles this process?

A person who is named executor in the Will, or is the closest next kin in case there is no Will or it is incomplete, can do this job. Certain rules and regulations are laid down by the law that determines the order of priority of persons who have a claim on the estate. These persons can also apply for acting as probate and sort everything out after the demise of a person.

How should I go about it?

Firstly, you will have to find a responsive Funeral Director to help you in the entire procedures and formalities for making arrangements for the body and the funeral. A reputable solicitor from 'Not Just Law' can also do all arrangements on your behalf, if you want.

Then you should get a death certificate from the doctor, the coroner's office or the hospital in order to register the death. For your convenience, you should get some copies of the certificate as your solicitor can quickly send them to all important departments of places for evaluating the assets and other belongings.

Once you are done with this, you can concentrate on the funeral as it is an important event and should be managed on priority basis. You can leave all your worries to your solicitor as there would be ample time to sort out the estate later on.

What happens to the house?

It usually takes some time to sort out the house, so it is best for the executor or someone close in the family to secure the house in the meantime. You need to make sure that all things in the house are safe and it is advised that you make a record of all valuables. If required, you can even ask the valuer to scrutinize all things in the house and see if some things are worth putting into auction.

When you are sure that no precious things are there in the house, you can seek help of a house clearance professional to handle the rest of the things. You can seek guidance from your solicitor who might recommend trustworthy and efficient person to manage all these things in a proper manner.

What all information do we need to provide?

It is advised that you inform the bank about the death as soon as possible, to ensure that they can freeze the deceased's bank account. All utility bills will be cleared later on, so you need not think about that. Moreover, it would be best if you can send the passport and driving license back and immediately destroy all credit cards in order to prevent their possible misuse and safeguard against risk of identity theft. Seeking help of a solicitor will be beneficial, as he will inform all concerned person after getting sufficient information and details about the assets, liabilities and persons entitled to the estate.

What about determining the assets and liabilities?

You should recover all possible papers that are available in the house and show it to your solicitor. This will help him in determining what things are to be managed and if some enquiries are to be made to establish the accurate worth at the time of death. Value evaluation is extremely important for completing the tax form as it is supposed to be submitted along with the Probate application. The tax and Probate forms can be made only after all information is available, and you just need to sign them and the application will be submitted to the Probate Registry.

However, you need to understand that all assets do not necessarily require a Probate. So, your solicitor will be the best person to guide you in going through the process and realizing small bank or savings balances in the initial stage itself.

What about the tax and funeral expenses?

According to the law, one has to pay Inheritance Tax prior to availing for a Probate. The Funeral directors would enquire about the payment initially, but when dealt correctly they are likely to wait. You can seek assistance from your solicitor about raising the money for tax. Normally, a bank releases money for payment of tax and meeting the funeral expenses, prior to Probate.

What is the difference between Probate and Letters of Administration?

The entire legal process that takes place for administering the assets of a deceased person is termed as Probate, if the person had left a Will. Whereas, the term “Letter of Administration” is used when there is no Will or the Will is incomplete. However, many people generally use the word Probate for this as well.

Your solicitor will begin with the process of gathering the assets and administer the property in the estate, as soon as the court issues the Grant for Probate or Letter of Administration. It is mandatory to pay all liabilities or debts before distributing the remaining estate among the beneficiaries. Once the entire process is completed, your solicitor will provide “Estate Account” or simply a statement that will show the final distribution of the estate, in order to ensure that every concerned person becomes aware of his share in the estate.

How much time does this process take?

There is no specific estimate of the time taken by the process, as it depends on numerous factors. For instance, simple estates usually do not require a Probate and hardly takes weeks to sort out everything. Normal estates that requires Probate to some extent can take anywhere between six to twelve months to complete the procedure and all formalities. Moreover, complex estates that have large property portfolios or on-going business relies heavily on Probate, and it might take years to conclude. In case any disputes surface, then it might take longer.

You need to consult with your solicitor to help you get an idea about the estimated fees and time limit about the probate.

What will a Solicitor do in all this?

Seeking services of a qualified solicitor can help you a lot in this matter as he is trained to understand all these procedures easily. Moreover, he will observe and identify all probably aspects that surfaces after the death. The executor has an extremely responsible job at hand and has to contemplate over numerous things. Executor is responsible for the beneficiaries of the estate along with ensuring that legitimate tax, debts and all other liabilities are taken care of and should settle all claims against the estate. If all these things are not dealt with properly, then it

can give rise to various problems later one, when no more money will be available to resolve them.