

Glossary of legal terms used in probate and estate administration

A

Administration Period

The time span from the date of death until the assets of the estate are in a position ready for distribution to the beneficiaries.

Administrator

Appointed by the Court to manage the estate of someone who has passed away without leaving a valid will.

Asset

Anything owned by the deceased that has value.

B

Beneficiary

A person or organisation named in a will who is entitled to inherit from the deceased's estate.

Bequest

A gift given in a will.

C

Chattel

Typically household or personal items that can be touched and moved - to the exclusion of assets such as land, bank accounts, investments and debts owed to the deceased.

Codicil

An addition or change to an existing will. A codicil must be signed, witnessed, and attached to the original will.

Contentious/Non-Contentious Probate

Contentious Probate: Involves disputes regarding the will, its validity, or how the estate is distributed. Legal advice is needed if disputes arise.

The rules for contentious probate are detailed in The Non-Contentious Probate (Amendment) Rules 2020.

Non-Contentious Probate: Refers to straightforward probate without any disputes. In these cases, an ICAEW-probate accredited accountant can manage the process for you.

Creditors

Individuals, companies, or organisations to whom the deceased owed money.



Debtors

Individuals, companies, or organisations who owe money to the deceased.

Deceased Estates Notice

An advertisement placed in The Gazette which contains the details of a deceased person and the executor/administrator contact details. This enables potential creditors and beneficiaries to submit a claim against the estate.

Deed of Variation

A legal document used to alter the distribution of an estate as specified in a will after the testator has passed away. This requires the agreement of all beneficiaries.

Disbursements

Payments made to third parties during the probate process, such as the probate application fee charged by HMCTS and the charge for copies of the Grant of Probate.

Dying Intestate

When someone passes away without having made a valid will.



Estate

All the property, assets and liabilities of a person at the time of their death.

Estate Accounts

A statement showing the financial activity of the estate.

Estate Administration

The process of dealing with and settling the affairs of the estate.

Executor Account

A temporary bank account managed by the executor for handling the estate's financial transactions.

Executor/Executrix

A person or firm appointed in a will to manage the estate according to the deceased's wishes, as set out in their will.

Executor's Year

The first year after date of death during which the executors cannot be compelled to distribute the assets of the estate.



Letters of Administration

Court authority given to someone to manage an estate when the deceased has died intestate.

Grant of Probate

Legal authority granted by the Probate Registry allowing an executor to manage the deceased's estate. It confirms the legal right to deal with the estate.

Grant of Representation

A general term for the legal authority obtained from the Probate Registry to administer a deceased's estate, including both grants of probate and letters of administration.



HMCTS

His Majesty's Courts and Tribunals Service.



Inheritance Tax (IHT)

Tax that must be paid on the deceased's estate if its value exceeds a certain threshold.

Insolvent Estate

When the estate has insufficient assets to meet its obligations, requiring the executor to apply the rules of bankruptcy, such as paying creditors in a specific order of priority.

Intestacy/Intestate

When someone dies without leaving a valid will.



Lay Executor vs Professional Executor

A lay executor is typically a family member or friend who does not charge fees but can claim reasonable expenses, unless otherwise provided for in the will. A professional executor, is a paid specialist who handles the probate process.

Legacy

A gift left to someone in a will, often used loosely to include land.

Legacy Beneficiary

Someone who is given a specific item in a will, such as a ring or a car.

Legal Services Ombudsman

A free service that investigates complaints about regulated legal services in England and Wales. Information on making a complaint is available on their website.

Letters of Administration

An official document issued by the Probate Registry authorising someone to act as the administrator of an estate when there is no valid will or willing executor.

Liabilities

Payments that the estate needs to cover, often including debts owed by the deceased before their passing.



Oath

A legal statement made by the executor or administrator affirming the validity of the will, the commitment to administer the estate according to the will, and their right to carry out the process.

Order of Distribution

The sequence in which assets from the estate are distributed. Debts and liabilities are settled first, followed by gifts to legacy beneficiaries, and then the remainder is distributed to residual beneficiaries.



Pecuniary Legacy

A specific sum of money left as a gift in a will.

Personal Representative

Another term for an executor or administrator.

Probate

The legal authority granted to manage a deceased person's estate.

Probate Office/Probate Registry

Part of HM Courts & Tribunal Service where probate applications are made and grants of probate are issued.



Renouncing Probate

When an executor decides not to accept their appointment and informs the Probate Registry in writing.

Reserved Legal Services

Certain legal activities that can only be performed by regulated professionals, such as assisting with the application for a grant of probate in a professional capacity. Unreserved activities, like will writing, can be carried out by anyone.

Reserved Power

When an executor chooses not to start their role immediately but keeps the option to do so later.

Residuary Beneficiary

A person entitled to receive what remains of the estate after all debts, taxes, and specific legacies have been settled.

Residuary Estate

The net value of the estate after deducting expenses such as debts, liabilities, and funeral costs, and after distributing pecuniary gifts and legacies.

Rules of Intestacy

The law that determines who inherits when someone dies without a will.



Testator/Testatrix

A person who has made a legally valid will.

Trust

A formal arrangement where assets are transferred from the testator or settlor to a trustee, who manages and protects the assets for the benefit of a third party.

Trustee

The individual responsible for managing and administering the trust.



Will

A legal document outlining how the deceased wants their estate to be managed and distributed after their death.