

# Estate Administration in the Cayman Islands

This briefing note summarises the process of obtaining a grant of probate or letters of administration in the Cayman Islands.

A grant of probate or letters of administration will be necessary when a person dies and leaves Cayman Islands assets in their individual name, such as money in a bank account or shares in a Cayman Islands company. The Succession Act (Revised) (the **Succession Act**) provides that no person shall take possession of or in any manner administer any part of the estate of a deceased person unless he or she has first obtained from the Grand Court of the Cayman Islands a grant of probate of the will or letters of administration of the estate of such deceased person.

A grant is necessary so that persons or organisations holding money or other assets in the deceased's name know who will be legally entitled to the asset(s). The grant is proof that the person named in it has a legal entitlement as executor or administrator of the estate of the deceased.

## The Grant

The Succession Act and the Probate and Administration Rules (2008 Revision) (the Rules) provide for four types of grants:

- Probate – issued to an executor or executors named in a deceased person's will.
- Letters of Administration with the will annexed - issued where there is a will, but no named executor or the executor has renounced because he or she does not wish to be involved in dealing with the estate.
- Letters of Administration - issued because the deceased has not made a will or the will is deemed to be invalid.
- Resealing of Foreign Grants - obtained where a grant has been obtained through a court of probate in any part of Her Majesty's dominions, or in any foreign country, or a British court in a foreign country, has granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may be sealed with the seal of the Grand Court of the Cayman Islands and shall be of the like force and effect and have the same operation in the Cayman Islands as if granted by the Grand Court.

## Timing

The application for probate or letters of administration of the estate of a deceased person must be filed within six months of the death or within two months of the termination of any dispute touching the right to such probate or letters of administration.

If an application is made after the six month period, the applicant must first make an application to the Court for special leave to apply out of time.

The timing for receiving a Court sealed order is approximately 3 to 4 months from the time of submitting a complete and correct application.

Within six months of obtaining the grant, an inventory of the estate must be filed with the Court and within one year, an affidavit of general accounting must also be filed to confirm that the administration of the estate has been completed.

## General Procedure for Applications

The required grant is obtained by a paper application to the Probate Registry in the Cayman Islands and is reviewed on the papers by the Judge in Chambers. In other words there is no need for a hearing. For the avoidance of doubt, it is not necessary for the executor/administrator to be physically present in the Cayman Islands to execute or submit the application.

The requisite documents will vary depending on the grant sought.

### Application for Special Leave

- An application for special leave
- An affidavit in support explaining the reason(s) for the delay in making the application

### Application for a Grant of Probate

- An application for the grant of probate
- An affidavit in support of the application covering certain prescribed matters
- The original will or a court certified copy
- An official copy of the death certificate of the deceased
- Any other documents as may be necessary in support of the application

### Application for Letters of Administration with or without the will annexed

- An application for the grant of letters of administration which includes a bond in a sum equal to twice the value of the known assets of the estate
- An affidavit in support of the application covering certain prescribed matters
- An official copy of the death certificate of the deceased
- The original will or a court certified copy if the deceased died testate
- Any other documents as may be necessary in support of the application

### Resealing of a Foreign Grant

- A court issued copy of the foreign grant
- An official copy of the death certificate of the deceased
- An affidavit of foreign law in support of the application sworn by a lawyer, practicing in the country in which the foreign grant was issued, confirming that either (a) the will is valid under the laws of that country; or (b) the person appointed as administrator was validly appointed under the laws of that country
- Any other document as may be necessary to enable the grant to be made sworn on affidavit.

### Authentication of Affidavits

All affidavits must be sworn (or affirmed) in the presence of a notary public or equivalent.

Where an affidavit is sworn in the presence of a notary in a non-commonwealth country, the affidavit will need to be legalised.

In countries where the Hague Convention is applicable, affidavits should be legalised by Apostille. The process of legalising documents will vary from country to country in non-Hague Convention member countries.

### Documents in a Foreign Language

Where documents such as the foreign grant, the death certificate or the will are not in English, a full certified translation of such documents must be submitted along with the original foreign language documents. The certification must be accompanied by a signed statement attesting that the translation is accurate and complete and to the best of the translator's knowledge and ability.

## Caveats

A person who wishes to receive notice of a resealing of a foreign grant may enter a caveat in the probate registry by completing a prescribed form and lodging it with the clerk of the probate court. The caveat is only valid for six months and will lapse automatically unless renewed.

## Court fees

Court filing fees in respect of making an application are in the region of US\$300.

- An application for a grant of probate, letters of administration or a resealing of a foreign grant - US\$243.90
- Any affidavit in support of the application - US\$30.48
- Obtaining a copy of an order of the court – US\$30.48
- Inventory or account – US\$30.49

## Summary

The rules outlining the process for applying for a grant are technical, detailed and specific. Significant time delays will be incurred if an incorrect or incomplete application is submitted. Our Cayman Islands Private Client team has years of experience advising on and obtaining grants of probate and letters of administration and we will ensure that your application is submitted to the Grand Court correctly and expediently.



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