



**JUDICIARY  
BRUNEI DARUSSALAM**

**PROBATE  
&  
LETTERS OF  
ADMINISTRATION**



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### **WHAT HAPPENS TO THE PROPERTY BELONGING IN A PERSON WHEN HE DIES?**

The deceased person's property (collectively known as his estate) is frozen and a person has to be appointed by the court to take charge of the estate.

Where the deceased person had made a will, he would have appointed a person(s) called an executor(s) to take charge of his estate.

Where the deceased person died without having made a will, a person(s) would normally have to be appointed as an administrator(s) to take charge of the estate.

In order to be recognized legally as the executor(s) or administrator(s) of the deceased person's estate, you would have to apply for Probate or Letter of Administration respectively.

### **WHAT IS PROBATE?**

It is a Court Order authorising the executor(s) appointed by the deceased person under his will to administer his estate according to the direction contained in his will.

### **WHAT ARE LETTERS OF ADMINISTRATION?**

It is a Court Order authorising the person(s) named in it to administer the estate of the deceased person in accordance with the law and customs.

### **CAN I APPLY FOR PROBATE OR LETTERS OF ADMINISTRATION?**

#### **Probate**

You can apply for Probate if you are the executor(s) named in the Will of the deceased person.

#### **Letters of Administration**

You and any of your family members, who are of full age, are entitled to apply to be appointed administrator(s).

For non-Muslims, the law gives priority to certain members of the family over others, depending on the marital status of the deceased. If the deceased person was single, his surviving parents will have priority over his brothers and sisters to be administrators. If the deceased person was married, his spouse will have priority over the children to be his administrator.

**IF I HAVE THE RIGHT TO APPLY FOR PROBATE OR LETTER OF ADMINISTRATION, CAN I RENOUNCE MY RIGHT TO APPLY?**

Yes, you may give up or renounce your rights and consents to other persons applying for Probate or Letters of Administrations by filing a Renunciation or Consent.

**HOW DO I APPLY FOR PROBATE OR LETTERS OF ADMINISTRATION?**

To apply for Probate or Letters of Administration, a number of documents have to be prepared and filed (after payment of filing fees) at the Probate Registry of the relevant District in Brunei Darussalam (see “Must I engage a lawyer”).

**DOCUMENTS REQUIRED FOR BOTH PROBATE AND LETTERS OF ADMINISTRATION:**

1. The Petition;
2. Affidavit for Collector of Stamps;
3. Photocopy of the original extract of the deceased's Death Certificate;
4. Photocopies of all documents of title to assets belonging to the deceased person e.g. bank accounts, land property, motor vehicles, businesses registration, etc;
5. For Letter of Administration, a letter of consent signed by all beneficiaries, agreeing to the Petitioner's application.

**ADDITIONAL DOCUMENTS REQUIRED FOR PROBATE:**

6. The Original and Photocopy of the Will;
7. Renunciation(s) by a person(s) appointed executor(s) by the Will but who does not wish to be the executor(s), if any.

**ADDITIONAL DOCUMENTS REQUIRED FOR LETTERS OF ADMINISTRATION:**

8. For Muslim's Estate  
Photocopy of the Birth Certificates or Identity Cards of all immediate members of the family must be submitted. (this is to facilitate the application of an inheritance Certificate or "faraid" from the Syariah High Court)
9. For non-Muslims' Estate  
Renunciation of the beneficiaries having a prior right to apply for letters of administration, if any.
10. Consent of the Co-Administrators, if any.

**N.B. The above requirements apply in cases of simple petitions for probate and Letters of Administration.**

**WHAT HAPPENS AFTER THE PETITION HAS BEEN FILED IN COURT?**

If the Probate Officer, or his Deputy is satisfied that all the documents are in order, and there is no caveat filed against the petition, the Petition for Probate or Letters of Administrations will be granted.

For Muslims Estate, the petition will only be granted if the Original Inheritance Certificate ("faraid") has been issued and received by the Probate Officer.

**WHAT SHOULD I DO AFTER THE PETITION IS GRANTED?**

After the Petition is granted by the Probate officer or his Deputy, you, the Petitioner, should:-

- (a) settle estate duty; where applicable;
- (b) settle the extracting fee.

On payment of the above, a grant of Probate or Letter of Administration will be issued.

### **MUST I ENGAGE A LAWYER?**

The Court provides forms of Petition and Affidavit for Collector of Stamps. A Petitioner can complete these forms and on payment of B\$160.00 filing fee, the petition will be listed for hearing, provided the requirements mentioned earlier are satisfied.

However, where the estate of the deceased is complex, you may wish to engage a lawyer.

### **WHAT SHOULD I DO AFTER THE PROBATE AND LETTER OF ADMINISTRATION IS GRANTED?**

The Probate and Letter of Administration must be shown to the relevant authority and photocopy of the Probate or Letter of Administration be extended to them. E.g. the bank will need to have sight of the Probate or Letter of Administration but they keep only a photocopy of the Probate or Letter of Administration. This procedure is true for most assets except land.

For landed property; where the deceased person is a –

- (1) Muslim – his administration must seek the approval of the Syariah High Court Judge for division of the land. Similarly, where a beneficiary wishes to forgo his share, he has to indicate his wish to the Syariah High Court Judge.
- (2) Chinese – his administrator has to consult the “Kapitan Cina” who will ascertain the beneficiaries of the estate.
- (3) Other Indigenous Group – his administrator has to consult the “Ketua Kampung” for ascertaining and confirmation of the beneficiaries of the estate.

Only on obtaining the above can the Land Offices entertain any application to transfer ownership of land to the beneficiaries.

### **WHAT IF SOME PROPERTIES WERE NOT INCLUDED IN THE PETITION?**

The Administrator or Executor will have to affirm or swear a Corrective Affidavit, setting out the particulars of the assets which was excluded earlier. The filing fee for this affidavit is \$5.00.

If such an application is made, the original Probate or Letter of Administration must be returned to the Probate Registry at the time of filing the Corrective Affidavit.

The Probate Registry concerned will assist in completing the Corrective Affidavit.

#### **WHAT DO I DO IF I OBJECT TO A PETITION?**

If you object to a Probate or Letter of Administration being granted, then you may file a caveat. The filing fee is \$10.00.

Once filed, the caveat is valid for six (6) months. To record a continued objection beyond six months, the caveat must be renewed by filing a fresh caveat.

#### **DO ALL BENEFICIARIES HAVE TO ATTEND THE HEARING OF THE PETITION?**

It is not necessary for all beneficiaries to attend if they agree to the Petitioner's application for Probate or Letter of Administration.

Only a beneficiary who objects to the application or a person who has filed a caveat need to attend the hearing of the petition.

#### **DUTIES OF ADMINISTRATOR/EXECUTOR**

1. Collect and recover all the property assets and effects covered by the grant;
2. Discharge all the debts due by the deceased;
3. Distribute the residue of the estate according to the beneficiary's share as decided by the Inheritance Certificate ("faraid"), customs or will, etc.

**For further information, please contact:**

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