

# 遺產承辦處

## PROBATE REGISTRY



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# 遺產承辦處

## 第一部分 引言

### 1.1. 甚麼是遺囑認證？

遺囑認證是一項法庭命令，授權一名或以上的人士根據遺囑中的指示管理死者的遺產。獲授權人士稱為遺囑執行人。

### 1.2. 甚麼是遺產管理書？

遺產管理書是一項法庭命令，授權一名或以上的人士依法管理死者的遺產。獲授權人士稱為遺產管理人。

### 1.3. 甚麼是遺產管理書(附有遺囑)？

遺產管理書（附有遺囑）是一項法庭命令，授權一名或以上的人士在下述情況中根據遺囑中的指示管理死者的遺產—遺囑沒有指定遺囑執行人或沒有遺囑執行人能夠或願意履行職責（不管任何原因）。獲授權人士同樣稱為遺產管理人。

### 1.4. 甚麼是授予書？

授予書，俗稱「承辦紙」，包括遺囑認證，遺產管理書或遺產管理書（附有遺囑）。

## 第二部分 遺產承辦處

### 2.1. 為甚麼成立遺產承辦處？

根據《遺囑認證及遺產管理條例》(香港法例第10章)，高等法院獲授發出授予書的權力，由高等法院司法常務官在處理所有無爭議的申請時行使，並在司法機構內設立遺產承辦處，以協助他執行工作。

### 2.2. 遺產承辦處負責甚麼工作？

遺產承辦處協助司法常務官處理申請和提出查詢，以確使授予書發給法律規定的人士；此外又協助他執行其他法定職能，包括遺產管理官的工作。

## 第三部分 遺產管理官

### 3.1. 誰是遺產管理官？

高等法院司法常務官是當然遺產管理官。

### 3.2. 他負責甚麼工作？

遺產管理官為小額遺產提供一個廉宜的處理方法。他協助遺產受益人以簡易的方法從遺產中獲得金錢。

### 3.3. 遺產管理官在甚麼情況下會協助以簡易方式管理遺產？

遺產管理官通常會協助以簡易方式管理：由手頭現金、銀行存款及/或強積金組成，數額不超過150,000元的遺產。

### 3.4. 遺產管理官收費嗎？

遺產管理官根據遺產的總值按以下比率徵收費用：

(a) 首1,000元	.....	5%
(b) 其後4,000元	.....	2.5%
(c) 餘額	.....	1%

## 第四部分 我應該怎樣做？

### 4.1. 如果想承辦死者的遺產，我應該怎樣做？

這個問題很難解答，因須視乎很多因素而定。不過，如果死者去世時以香港為居籍，而他的遺產又處於香港，你可以首先考慮以下兩項因素：

- (a) 死者的死亡日期，及
- (b) 遺產的價值和性質。

## 第五部分 死者在2006年2月11日前去世

### 5.1. 我首先要怎樣做？

你必須到稅務局遺產稅署申領必要的清妥遺產稅證明文件。

### 5.2. 我跟着應該怎樣做？

如果遺產符合上文第3.3段中所述情況，你可以向遺產管理官申請以簡易方式管理遺產。

### 5.3. 如果遺產管理官不能提供協助，我可以怎樣做？

你可以到遺產承辦處的公眾申請組申請授予書。

公眾申請組通常在以下情況能提供協助：

- (a) 申請看來簡單，
- (b) 遺產的情況並不複雜，或
- (c) 司法常務官認為適宜提供協助。

### 5.4. 如果公眾申請組不能提供協助，我應該怎樣做？

在這情況下，你應該考慮徵詢律師的意見。遺產承辦處備有由香港律師會印製的律師行名單以供查閱。

## 第六部分 死者在2006年2月11日或之後去世

### 6.1. 我首先要怎樣做？

請你檢查死者的遺物。如果他曾單獨或聯同他人租用保險箱，你便應該依照民政事務總署所印發的有關小冊子，按程序申請檢視保險箱，清點箱內的物品和取出死者的遺囑（如有的話）。

### 6.2. 我跟着應該怎樣做？

如果你急需用錢以支付殯殮費或提供生活費給死者生前所供養的人，或遺產全部是金錢而數額又不超過50,000元，你應該依照民政事務總署所印發的有關小冊子，按程序尋求協助。

### 6.3. 如果民政事務總署不能提供協助，我可以怎樣做？

如果遺產符合上文第3.3段中所述情況，你可以向遺產管理官申請以簡易方式管理遺產。

### 6.4. 如果遺產管理官不能提供協助，我可以怎樣做？

你可以到遺產承辦處的公眾申請組申請授予書。

公眾申請組通常在以下情況能提供協助：

- (a) 申請看來簡單，
- (b) 遺產的情況並不複雜，或
- (c) 司法常務官認為適宜提供協助。

## 6.5. 如果公眾申請組不能提供協助，我應該怎樣做？

在這情況下，你應該考慮徵詢律師的意見，遺產承辦處備有由香港律師會所印製的律師行名單以供查閱。

## 第七部分 誰可以申請授予書？

### 7.1. 如果死者已簽立遺囑，可以由誰來申請授予書？

通常來說，應由遺囑執行人提出申請。

### 7.2. 如果遺囑沒有指定遺囑執行人或沒有任何遺囑執行人能夠或願意履行職責（不管任何原因），那應怎辦？

《無爭議遺囑認證規則》（香港法例第10A章）第19條規定可提出申請人士的優先次序。要解答這個問題，必須明白規則中的一些專門名詞，以及對有關的遺囑作出解釋。你如果有任何疑問，應該考慮徵詢律師的意見。

### 7.3. 如果死者沒有簽立遺囑，可以由誰來申請授予書？

《無爭議遺囑認證規則》（香港法例第10A章）第21條已作出有關的規定。簡單來說，可提出申請人士的優先次序如下：

- (a) 配偶，
- (b) 死者的一名子女，
- (c) 死者的父親或母親，
- (d) 死者的一名兄弟姊妹。

## 7.4. 申請應該由誰提出？

一般來說，應該由享有較高優先權的人士申請授予書，不過，如果享有較高優先權的人士已去世或放棄獲得授予書的權利，則享有較低優先權的人士仍然有權獲得授予書，但必須向遺產承辦處提出享有較高優先權的人士已死亡或放棄權利的證據。

## 第八部分 申請授予書應該注意些甚麼？

### 8.1. 我可以親自申請授予書嗎？

《無爭議遺囑認證規則》（香港法例第10A章）第4(1)條容許你這樣做。

### 8.2. 我可以經由受權人提出申請嗎？

任何本身有權獲得授予書而又居於香港以外地方的人士，都可以經由合法委托的受權人提出申請。

### 8.3. 我應該聘請律師嗎？

這是你的個人選擇。在下列情況中，你可以考慮聘請律師來協助你申請授予書：

- (a) 申請看來複雜及/或遺產的情況複雜，以及/或
- (b) 你對於準備及提交必要的文件等法律程序並不熟悉。

#### 8.4 遺產承辦處的職員可以幫助我嗎？

遺產承辦處的職員會盡最大的努力在申請授予書的程序上協助你，不過，請注意《無爭議遺囑認證規則》(香港法例第10A章)第4(8)條清楚說明，遺產承辦處內的任何人都不可向個人申請人提供法律意見。

#### 8.5 我可以經由代理人提出申請嗎？

《無爭議遺囑認證規則》(香港法例第10A章)第4(2)條旨在防止非律師人士向人提供法律服務，因此不管代理人有沒有酬勞，它禁止經由代理人提出的申請。另外，個人申請人也不可以由他的顧問或看似他的顧問的人陪同提出申請。

#### 8.6 申請人的數目有否規定？

你應注意：

- (a) 授予書不得發給超過四名人士，以及
- (b) 如遺產涉及未成年的受益人及/或享有終身權益的人(通常稱為未成年人權益及/或終身權益)，則授予書必須發給不少於兩名人士。

## 第九部分 怎樣申請授予書？

#### 9.1 我應該準備那些文件？

你應該填妥合適的指明表格，遺產承辦處印有這些表格備取，你也可以從該處的網頁中下載。另外，你必

須帶同一切有關的文件和證據，以證明你有權獲得授予書。

#### 9.2 我應該怎樣填寫指明表格？

高等法院司法常務官印發了一份「指明表格使用指引」，你可到遺產承辦處索閱，也可從該處的網頁中下載。另外，你亦可請教律師。

#### 9.3 我可以用郵遞方式申請授予書嗎？

你必須親臨遺產承辦處申請授予書，因為《無爭議遺囑認證規則》(香港法例第10A章)第4(9)條不容許以郵遞方式申請。

## 第十部分 授予書的收費

#### 10.1 申請授予書需要繳費嗎？

法庭會根據《高等法院費用規則》(香港法例第4D章)附表2徵收費用。

#### 10.2 如果死者在2006年2月11日前去世，法庭怎樣收費？

法庭的費用包括：

- (a) 申請書的存檔費用265元，
- (b) 授予書的謄寫費用72元，以及
- (c) 處理授予書申請的按比例收費：

如果所宣誓的遺產淨值是

10,000元 .....	160元
20,000元 .....	320元
50,000元 .....	640元
100,000元 .....	800元
200,000元 .....	1,200元
300,000元 .....	1,600元
400,000元 .....	2,400元
600,000元 .....	3,200元
800,000元 .....	4,000元
1,000,000元 .....	4,800元

而每多100,000元或不足100,000元之數則須另付400元。

10.3 如果死者在2006年2月11日或之後去世，法庭怎樣收費？

法庭通常的收費是：

- (a) 申請書的存檔費用265元，
- (b) 授予書的謄寫費用72元。

按遺產淨值的按比例收費已取消。

## 第十一部分 常見問題

11.1 授予書需要多久才能發出？

只要你符合所有法律上的規定和就司法常務官的查詢已提供他認為滿意的答覆，法庭便會發出授予書。所需的時間視乎個別情況而定，一般而言，簡單明確的申請平均需要大約5至7個星期；不過，如果申請複雜及/或遺產的情況複雜，所需的時間便可能會較長。

11.2 我需要到遺產承辦處多少次？

由於司法常務官有責任仔細審查申請授予書人士的資格，所以你可能需要到遺產承辦處超過一次，以提交其他資料和更多的文件或證據。

11.3 遺產承辦處的職員為甚麼會提出問題和要求提交文件？

遺囑認證司法管轄權是訊問式的。授予書是一份重要的法律文件，通常授權承辦人全權處理遺產，因此，司法常務官有責任作出查詢及要求獲得他認為滿意的答覆。

11.4 我可以取回已存檔的文件嗎？

所有已存檔的文件都是法庭紀錄的一部分，通常不會退回，不過，你可以在繳付訂明的費用後申請要求副本。另外，在授予書發出日期起計6個月後，如果你有充分理由的話，可以向司法常務官申請取回結婚證書、出生證明書及死亡證（死者的死亡證除外）的正

本，他會視乎情況作出決定。如果你的申請獲得批准，司法常務官通常會要求你確認收到那些正本文件，並承諾在法庭提出要求時把文件交回，以及提交副本作法庭紀錄之用。

#### 11.5 遺產承辦處會否就死者在香港的遺產同時簽發中文及英文的授予書？

就死者在香港的遺產，本處只會根據申請人在申請遺產承辦時所選用的法定語文（中文或英文），簽發一份授予書。

## 第十二部分 殯殮費用

#### 12.1 如果死者在他的銀行戶口內留有金錢作殯殮之用，我應該怎樣做？

你應該依照民政事務總署所印發的有關小冊子，按程序尋求協助。

#### 12.2 如果死者的殯殮費用已由我支付，而他的遺產僅足以應付而所餘不多，我應該怎樣做？

你可以向遺產管理官申請，以簡易方式管理遺產以歸還你所支付的殯殮費用，不過遺產必須符合上文第3.3段中所述的情況。

#### 12.3 遺產管理官管理遺產後，如有無人申領的餘額時會怎樣處理？

任何遺產餘額如果超過5年無人申領，都會撥歸政府的一般收入。

## 第十三部分 認證

#### 13.1 甚麼是認證？

這是一項證明外國公文真偽的程序。

#### 13.2 遺產承辦處為甚麼要求外國公文必須要認證？

每份外國公文都有一個特定的目的，如結婚證明書證明某某的婚姻關係，死亡證確認某人已去世，而出生證明書則顯示某人父母的身分。不過，不同的國家會以不同的形式和文字發出公文，所以這些文件必須經過認證才能認受，這是通行世界的做法，遺產承辦處同樣跟隨。

#### 13.3. 怎樣才能使外國公文獲得認證？

(a) 對於那些參加了海牙公約（取消外國公文必須獲得法律認可的規定）的國家或地區來說，你只須採取一項步驟，即把公文交至該國家或地區的有關部門，申請在公文蓋上《加簽證明書》。

(b) 至於那些沒有參加海牙公約(取消外國公文必須獲得法律認可的規定)的國家或地區來說，你則須要採取兩項步驟：

(i) 把公文交至該國或地區的有關部門(或外交部辦事處，視乎當地實際情況而定)以核證發出該公文機構簽名及/或印章的真偽；以及

(ii) 把該公文再交至該國或地區的中國大使館或領事館作第二次核證，以確認上述有關部門(或外交部辦事處)所作的核證。

13.4 那些國家或地區參加了海牙公約(取消外國公文必須獲得法律認可的規定)？

參加國家或地區的名單時有變動，但目前包括：澳洲、比利時、法國、德國、希臘、香港、匈牙利、意大利、日本、墨西哥、荷蘭、挪威、葡萄牙、西班牙、南非、瑞典、瑞士、英國及北愛爾蘭、美國。如有任何疑問，可向遺產承辦處查詢。

13.5 由中國大陸當局所發出的公文又怎樣處理？

慣常做法規定你必須採取以下兩個步驟：

(a) 到當地的公證處申領公證書，以及

(b) 把該公證書送交或轉交至中國外交部，以核證上述當地公證處簽名及/或印章的真偽。

13.6 我需要安排把文件翻譯嗎？

香港的法定語文是中文和英文，因此，任何不是用中文或英文書寫的文件都必須翻譯。

13.7 我應該先認證公文，還是先將它翻譯？

你必須在外國公文的正本上進行認證，而不是在翻譯本上。因此，你須先把公文認證，然後如有需要的話，再把已經認證的外國公文翻譯成中文或英文。

## 第十四部分 修改授予書

14.1 如果於授予書發出後，才發現死者尚有其他資產，遺產管理人應該怎麼辦？

遺產管理人可以親自或透過律師申請修改授予書。

14.2 遺產管理人親自申請修改授予書時應注意甚麼？

(a) 如死者於2006年2月11日前去世—遺產管理人應攜同授予書及一切與額外的資產有關的文件前往遺產稅署申請修改稅局文件，待收到遺產稅署的通知信之後，親臨遺產承辦處申請修改授予書。

- (b) 如死者於2006年2月11日或之後去世—遺產管理人應攜同授予書及一切與額外資產有關的文件親臨遺產承辦處申請修改授予書。

## 第十五部分 服務承諾

- 15.1. 如果我在遺產承辦處的公眾申請組協助下提出申請，會在甚麼時候獲得授予書？

授予書會在你繳清所有法庭費用和符合所有要求後發出，通常大約需要5至7個星期。

- 15.2 如果我委託律師代辦，我的申請會怎樣處理？

遺產承辦處將會：

- (a) 在你的申請存檔後的28個工作天內發信提出查詢（如有需要的話），以及
- (b) 在你繳清所有法庭費用和完成回答及辦妥所有查詢後的28個工作天內發出授予書。

- 15.3 遺產承辦處會回覆我的信嗎？

遺產承辦處一向儘可能即時回覆公眾人士的查詢，如果不能做到的話，則會在10天內先作出臨時的回覆，然後在30天內再作出詳盡的解答。

## 第十六部分 辦公時間及預約系統

- 16.1 遺產承辦處的辦公時間？

- (a) 遺產承辦處的辦公時間是：  
星期一至星期五：上午九時至下午一時及  
下午二時至下午五時  
星期六：上午九時至中午十二時

- (b) 星期日及公眾假期停止辦公。

- 16.2 到遺產承辦處公眾申請組前，是否需要預約？

- (a) 如屬一般查詢，是無需預約的；你亦可致電本處的查詢熱線2840 1683查詢。
- (b) 沒有律師的申請人如需公眾申請組協助提出申請，可透過以下方法約見：
- (i) 於辦公時間致電上述熱線2840 1683，或
- (ii) 親臨遺產承辦處。

### 16.3 如果天氣惡劣，遺產承辦處有甚麼安排？

- (i) 請留意司法機構透過電台、電視和其他媒體所作出的宣布，有需要時你也可以儘早致電本處再預約時間。
- (ii) 請參看此小冊子的附件1關於2011年3月14日起生效的安排。
- (iii) 請參閱司法機構網頁：颱風及暴雨警告安排。  
([http://www.judiciary.gov.hk/tc/crt\\_services/business\\_hours\\_typhoon.htm#typhoon\\_warning](http://www.judiciary.gov.hk/tc/crt_services/business_hours_typhoon.htm#typhoon_warning))

### 17.5 如果我想提出和遺產承辦處有關的意見時應該怎樣做？

我們隨時歡迎你提出建議和對我們的服務提出意見。你可以寫信給司法機構政務長，地址是香港金鐘道38號高等法院。如果你有任何疑問，請即聯絡遺產承辦處。

## 第十七部分 聯絡方法

### 17.1 遺產承辦處在那裏？

遺產承辦處的地址是：香港金鐘道38號高等法院大樓低層三樓。

### 17.2 遺產承辦處的電話號碼？

2840 1683（24小時熱線）。

### 17.3 遺產承辦處的傳真號碼？

2524 7737。

### 17.4 遺產承辦處的網址？

請瀏覽 <http://www.judiciary.gov.hk/>

司法機構  
二〇一一年十月  
(第七版)

## 颱風及暴雨警告的安排 [2011年3月14日起生效]

### 發出8號或以上熱帶氣旋信號

一般來說，當8號或以上熱帶氣旋信號發出時，法院/審裁處會將聆訊延期，而法院/審裁處的登記處及辦事處亦會關閉。

### 發出黑色暴雨警告信號

一般來說，若黑色暴雨警告信號在辦公時間前發出，法院/審裁處會將聆訊延期，而法院/審裁處的登記處及辦事處亦會關閉。若有關信號在辦公時間內發出，法院/審裁處會將聆訊延期，但法院/審裁處的登記處及辦事處則繼續開放。

### 8號或以上熱帶氣旋信號或黑色暴雨警告信號改為較低的信號或取消

#### 法庭程序恢復進行的安排

如有關信號於星期一至五及星期六上午6時或之前改為較低的信號或取消，法院/審裁處會於當天早上慣常時間恢復進行聆訊。

如有關信號於星期一至五上午6時至11時期間或於上午11時改為較低的信號或取消，法院/審裁處便會於下午2時30分恢復進行聆訊。因此，如你本該於當天早上到法院/審裁處出庭，你便須於當天下午2時30分出庭。

如有關信號於星期一至五上午11時後或星期六上午6時後改為較低的信號或取消，法院/審裁處便會於當

天全日休庭。如你本該於當天到法院/審裁處出庭，你便須於隨後一天（公眾假日除外）上午9時30分出庭。

如法院/審裁處於星期五全日休庭，而你又本該於當天到法院/審裁處出庭，你便須於隨後一天，即星期六（公眾假日除外）上午9時30分出庭。

#### 法院/審裁處的登記處及辦事處重新開放的安排

如有關信號於星期一至五及星期六上午6時或之前改為較低的信號或取消，法院/審裁處之登記處及辦事處會於當天早上如常開放。

如有關信號於星期一至五上午6時至11時期間或於上午11時改為較低的信號或取消，法院/審裁處便會於下午慣常時間重新開放。

如有關信號於星期一至五上午11時後改為較低的信號或取消，若當時情況許可，法庭/審裁處的登記處及辦事處或會於當天下午盡早重新開放。然而，如有關信號於星期一至五登記處及辦事處的正常關閉時間前2小時或少於2小時才改為較低的信號或取消，法庭/審裁處的登記處及辦事處便會全日關閉。

如有關熱帶氣旋及暴雨警告信號於星期六上午6時後改為較低的信號或取消，法院/審裁處的登記處及辦事處會繼續關閉。

# Probate Registry

## Part I Introduction

### 1.1. What is Probate?

It is a court order authorizing one or more persons to administer the Deceased's estate according to the directions in the Will. The person is referred to as executor.

### 1.2. What are Letters of Administration?

It is a court order authorizing one or more persons to administer the Deceased's estate in accordance with the law. The person is referred to as administrator.

### 1.3. What are Letters of Administration (with Will annexed)?

It is a court order authorizing one or more persons to administer the Deceased's estate in accordance with the directions in the Will when no executor is appointed or no executor is able or willing to act for whatever reasons. The person is also referred to as administrator.

### 1.4. What is a Grant?

It includes Probate, Letters of Administration or Letters of Administration (with Will annexed).

## Part II The Probate Registry

### 2.1. Why was the Probate Registry established?

The Probate and Administration Ordinance (Cap.10) delegates the power to issue Grant to the High Court. The Registrar of the High Court is asked to exercise such power and process all non-contentious applications. To assist him in discharging his duties, the Probate Registry has been established as part and parcel of the Judiciary.

### 2.2. What does Probate Registry do?

The Probate Registry helps the Registrar to process applications and raise requisitions to make sure that the Grant will be issued to the right person under the law. It also assists him to carry out other functions under the law including performing the functions of the Official Administrator.

## Part III The Official Administrator

### 3.1. Who is Official Administrator?

The Registrar of the High Court is the ex officio Official Administrator.

3.2. What does he do?

The Official Administrator provides inexpensive way of dealing with estates of small value. He helps the beneficiaries to obtain money summarily under the estate.

3.3. Under what circumstances the Official Administrator will help to administer the estate in a summary manner?

The Official Administrator will usually get in and administer summarily an estate, not exceeding \$150,000, made up of cash in hand, money at banks and/or Mandatory Provident Fund.

3.4. Does the Official Administrator charge?

The Official Administrator charges a commission based on the gross value of an estate at the rate of:

(a)	5%	.....	first \$1,000
(b)	2.5%	.....	next \$4,000
(c)	1%	.....	balance

## Part IV What should I do?

4.1. What should I do if I want to administer an estate?

It is a difficult question to answer because it depends on a number of factors. Nonetheless, if the Deceased died domiciled in Hong Kong and his estate is also located in Hong Kong, you may consider two matters first, namely:

- (a) the date of death of the Deceased, and
- (b) the value and nature of the estate.

## Part V Death before 11 February 2006

5.1. What do I do first?

You must attend the Estate Duty Office of the Inland Revenue Department to apply and obtain the necessary estate duty clearance papers.

5.2. What should I do next?

You may apply to the Official Administrator for his assistance by summary administration if the estate meets the circumstances mentioned in paragraph 3.3 above.

5.3. What do I do if the Official Administrator is not able to help me?

You may seek assistance from the Public Application Section of the Probate Registry to apply for a Grant.

The Public Application Section will usually be able to help if:

- (a) the application seems simple,
- (b) the estate is not complex, or
- (c) the Registrar considers it proper to offer help.

5.4. What should I do if the Public Application Section is unable to help me?

In such case, you should consider seeking legal advice. A list of solicitors' firms published by the Law Society of Hong Kong is available for perusal at the Probate Registry.

## Part VI Death on or after 11 February 2006

6.1. What do I do first?

Please check what the Deceased has left. If he rented a bank safe deposit box on his own or jointly with others, you should follow the procedures as set out in the relevant pamphlet issued by the Home Affairs Department to apply for inspection of the box, taking inventory and removal of the Will of the Deceased, if any.

6.2. What should I do next?

If you need money urgently for funeral expenses or maintenance of former dependents of the Deceased, or that the estate consists of money only not exceeding \$50,000, you should also follow the procedures as set out in the relevant pamphlet issued by the Home Affairs Department to seek assistance.

6.3. What do I do if the Home Affairs Department cannot help me?

You may apply to the Official Administrator for his assistance by summary administration if the estate meets the circumstances mentioned in paragraph 3.3 above.

6.4. What then if the Official Administrator is not able to help me?

You may seek assistance from the Public Application Section of the Probate Registry to apply for a Grant.

The Public Application Section will usually be able to help if:

- (a) the application seems simple,
- (b) the estate is not complex, or
- (c) the Registrar considers it proper to offer help.

6.5. What should I do if the Public Application Section is unable to help me?

In such case, you should consider seeking legal advice. A list of solicitors' firms published by the Law Society of Hong Kong is available for perusal at the Probate Registry.

## Part VII

### Who can apply for a Grant?

7.1. If the Deceased left a Will, who can apply for the Grant?

Usually, it is the executor who should submit the application.

7.2. What if no executor is appointed or that no executor is able or willing to act for whatever reasons?

Rule 19 of the Non-Contentious Probate Rules (Cap.10A) governs the order of priority for different persons to make the application. To answer this question requires an understanding of some technical terms in the rule and an interpretation of the subject Will. You should consider seeking legal advice in case of doubt.

7.3. If the Deceased did not leave a Will, who can apply for the Grant?

Rule 21 of the Non-Contentious Probate Rules (Cap.10A) regulates it. In simple words, the order of priority is:

- (a) spouse,
- (b) the child or one of the children of the Deceased,
- (c) the father or mother of the Deceased,
- (d) the brother or sister of the Deceased.

7.4. Who should make the application?

As a matter of general rule, the one with higher priority should file the application for Grant. However, a person having a lower priority may still be entitled to the Grant if the persons with higher priority have either died or renounced their rights to the Grant. Evidence of death or renunciation has to be filed with the Probate Registry.

## Part VIII

### What should I note in relation to an application for Grant?

8.1. May I make an application for Grant in person?

Rule 4(1) of the Non-Contentious Probate Rules (Cap.10A) allows you to do so.

8.2. Can I apply through an attorney?

A person may apply through his lawfully constituted attorney if he resides outside Hong Kong and is entitled to the Grant himself.

8.3. Should I engage a solicitor?

It is a matter of your own choice. You may wish to engage a solicitor to help in applying for the Grant if:

- (a) the application seems complicated and/or the estate is complex, and/or
- (b) you are not familiar with the legal procedures such as preparation and filing of the necessary papers.

8.4. Can the staff at the Probate Registry help me?

The staff of Probate Registry will try their best endeavors to assist you on procedural matters in relation to an application for Grant. However, you should note rule 4(8) of the Non-Contentious Probate Rules (Cap.10A) states clearly that no legal advice shall be given to a personal applicant by any person in the Probate Registry.

8.5. Can I apply through an agent?

Rule 4(2) of the Non-Contentious Probate Rules (Cap.10A) aims at preventing persons, who are not qualified solicitors, from providing legal services. The rule prohibits application through an agent, whether paid or unpaid. Further, the personal applicant may not be attended by any person acting or appearing to act as his adviser.

8.6. Is there any requirement as to the number of applicant(s)?

You should note that a Grant shall be issued to:

- (a) not more than four persons, and
- (b) not less than 2 persons for an estate involving minor beneficiary and/or someone who is entitled to enjoy an interest for life (commonly known as minority and/or life interest respectively).

## Part IX

### How can I apply for a Grant?

9.1. What documents should I prepare?

You should complete the appropriate Specified Forms(s). They are available in hard copies at the Probate Registry and in soft copies on its website. Further, you have to bring along all relevant documents, papers and evidence proving your entitlement to the Grant.

9.2. How should I complete the specified Forms?

You are suggested to read carefully “The Guide to the Specified Forms” issued by the Registrar of the High Court. Copies are available at the Probate Registry or you can download the document from its website. You may also consult your solicitor.

9.3. Can I apply for the Grant by post?

You must attend personally the Probate Registry to apply for a Grant because rule 4(9) of the Non-Contentious Probate Rules (Cap.10A) does not allow application by post.

## Part X Fees for the Grant

10.1. Do I need to pay if I apply for a Grant?

Court fees are payable in accordance with the Second Schedule of the High Court Fees Rule (Cap.4D).

10.2. For persons who died before 11 February 2006, what are the court fees?

They include:

- (a) \$265 fee for filing an application,
- (b) \$72 fee for engrossment of a Grant, and
- (c) Scale fee for processing an application for Grant:

If the estate is sworn under the net value of

\$10,000.....	\$160
\$20,000.....	\$320
\$50,000.....	\$640
\$100,000.....	\$800
\$200,000.....	\$1,200
\$300,000.....	\$1,600
\$400,000.....	\$2,400
\$600,000.....	\$3,200
\$800,000.....	\$4,000
\$1,000,000.....	\$4,800

and \$400 for every additional \$100,000 or part thereof.

10.3. For persons who died on or after 11 February 2006, what are the court fees?

The usual fees are:

- (a) \$265 fee for filing an application, and
- (b) \$72 fee for engrossment of a Grant.

Please note that there will be no more scale fee for processing an application for Grant.

## Part XI Usual Questions

11.1. How long will it take for a Grant to be issued?

A Grant will be issued once you have met all the legal requirements and answered the enquiries to the satisfaction of the Registrar. The length of time required varies from one case to another. For simple and straightforward case, it usually takes about 5 to 7 weeks on average. However, if the application is complicated and/or the estate is complex, you might need to wait longer.

11.2. How many times I have to attend the Probate Registry?

Since the Registrar is entrusted with the obligation to check carefully the entitlement of the applicant to the Grant, you might be required to attend the Probate Registry for more than once

to submit additional information and file further documents or evidence.

- 11.3. Why does the staff at the Probate Registry have to ask questions and request for documents?

The Probate Jurisdiction is inquisitorial. The Grant is an important legal document which usually authorizes the grantee to deal with the estate without limitation. Hence, the Registrar is under a duty to make inquiries and see that they are answered satisfactorily.

- 11.4. Could I get back the documents filed?

All documents filed form part of the court record and are usually not to be returned. You may however apply for photocopies of them upon payment of the prescribed fees. On the other hand, after a period of 6 months from the date of the issue of the Grant, you may apply, on good grounds, for the return of the original marriage certificates, birth certificates and death certificates (other than that of the Deceased) from the Registrar who will make a decision on your application according to the circumstances. If your request is agreed, the Registrar will usually ask you to acknowledge receipt of the original document, undertake to return it upon request and provide him with a photocopy for the court record.

- 11.5 In respect of the estate of the Deceased situate in Hong Kong, will the Probate Registry issue 2 grants of representation (One in Chinese and one in English)?

This Registry only issues one grant of representation in respect of the estate of the Deceased situate in Hong Kong in the official language (Chinese or English) used by the applicant in the application for grant.

## Part XII Funeral Expenses

- 12.1. What do I do if the Deceased left money in his bank account for his funeral expenses?

You should follow the procedures as set out in the relevant pamphlet issued by the Home Affairs Department to seek assistance.

- 12.2. What should I do if I have paid the funeral expenses for the Deceased who left an estate barely over such expenses?

You may apply to the Official Administrator for his assistance by summary administration to claim reimbursement of the funeral expenses if the estate meets the circumstances as per paragraph 3.3 above.

- 12.3. What happens to the unclaimed balance of an estate administered by the Official Administrator?

Any balance of the estate leaving unclaimed for 5 years thereafter will be transferred to the general revenue of the government.

## Part XIII Authentication

### 13.1. What is authentication?

It is the process of proving that a foreign public document is genuine.

### 13.2. Why does the Probate Registry ask me to authenticate the foreign public documents?

Each foreign public document serves a particular purpose. For example, a marriage certificate proves a valid marriage, a death certificate confirms the death of a person, and a birth certificate shows the identity of one's parents. However, different countries issue different public documents in different forms and languages. It is a common practice that a foreign public document can only be accepted if it is authenticated. The Probate Registry follows that practice.

### 13.3. How can I obtain authentication of a foreign public document?

- (a) For country or territory who has participated in Hague Convention abolishing the requirement of legalization for foreign public documents, one step is required. You need to take the public document to the proper authority in that country and obtain a Certificate of Apostille certifying the signatures and/or seal of the issuing authority.
- (b) For country or territory who has not participated in Hague Convention abolishing the requirement of legalization, two

steps are necessary. You need to:

- (i) take the public document to the proper authority (or foreign ministry office, as the case may be) in that country or territory for a certification that the signature and/or seal of the issuing authority on the public document are/is true, and
- (ii) pass that public document to the Chinese Embassy or Consulate in that country or territory for a second certification of the certification by the said proper authority (or foreign ministry office).

### 13.4. Which countries or territories have participated in the Hague Convention abolishing the requirement of legalization for foreign public documents?

Subject to changes from time to time, currently, they include Australia, Belgium, France, Germany, Greece, Hong Kong, Hungary, Italy, Japan, Mexico, Netherlands, Norway, Portugal, Spain, South Africa, Sweden, Switzerland, United Kingdom & Northern Ireland and United States of America. Please check with the Probate Registry in case of doubt.

### 13.5. What about public documents issued by the authorities in the Mainland?

The established practice requires 2 steps to be taken.

You have to:

- (a) obtain a notarial certificate from the local notarial office, and
- (b) arrange to have that notarial certificate passed to the Ministry of Foreign Affairs of China for a certification that the signature and/or seal on the local notarial office are/is true.

13.6. Do I need to prepare for translation of the documents?

Both Chinese and English are official languages in Hong Kong. Therefore, any document that is not in either Chinese or English has to be translated.

13.7. Which one should I do first: authentication or translation?

Authentication is to be done on the original foreign public document and not the translation. Therefore, you shall do the authentication first, followed by translation of the authenticated foreign public document, if necessary.

## Part XIV Amendment of Grant

14.1. What should the administrator do if additional properties of the Deceased are found after issuance of the grant?

The administrator may apply personally or through a firm of solicitors for amendment of the grant.

14.2. What points should be noted when the administrator applies personally for amendment of the grant?

(a) If the death occurred before 11 February 2006, the Administrator should approach the Estate Duty Office first with the grant and all documents in relation to the additional properties of the Deceased for amendment of the estate duty papers; and upon receiving the notice from the Estate Duty Office, apply to the Probate Registry for amendment of the grant.

(b) If the death occurred on or after 11 February 2006, the Administrator should bring along the grant and all documents in relation to the additional properties of the Deceased to apply for amendment of the grant at the Probate Registry.

## Part XV Performance Pledges

- 15.1. If the Public Application Section of the Probate Registry has assisted me to submit the application, when will I get the Grant?

It takes about 5 to 7 weeks upon payment of all court fees and when all requisitions have been complied with.

- 15.2. If I have instructed a solicitor to help me, how will the application be processed?

The Probate Registry agrees to:

- (a) send letter of requisitions, if any, to your solicitors within 28 working days after the application has been filed, and
- (b) issue the Grant within 28 working days upon payment of all court fees and when all requisitions have been complied with.

- 15.3. Will the Probate Registry answer my letter?

The Probate Registry always tries to give immediate reply to any inquiry from the members of the public. In case that it is not possible to do so, an interim reply will be given within 10 days and, a full response within 30 days upon receipt of your letter.

## Part XVI Opening Hours and Appointment System

- 16.1. What are the business hours of the Probate Registry?

- (a) It opens on: -
  - Monday to Friday: 9:00 a.m. – 1:00 p.m. and  
2:00 p.m. – 5:00 p.m.
  - Saturday: 9:00 a.m. – 12:00 noon

- (b) It closes on Sunday and Public Holidays.

- 16.2. Do I have to make a prior appointment before attending the Public Application Section of the Probate Registry?

- (a) For the purpose of making general enquiry, you need not make any prior appointment. You may also do so through our enquiry hotline at 2840 1683.

- (b) However, if you wish to be assisted by the Public Application Section in your application for grant, you may make an appointment with our processing officer through:

- (i) the said hotline at 2840 1683 during office hours, or
- (ii) personal attendance at the Probate Registry.

16.3. What are the arrangements of the Probate Registry in case of bad weather?

- (i) Please take notice of the announcements of the Judiciary through radio, television or other media. You may also call us at your earliest convenience to reschedule the appointment if necessary.
- (ii) Please refer to Appendix 1 of this publication for the arrangements operative from 14 March 2011.
- (iii) Please refer to Typhoon and Rainstorm Warning Arrangements in the Judiciary Website.  
([http://www.judiciary.gov.hk/en/crt\\_services/business\\_hours\\_typhoon.htm#typhoon\\_warning](http://www.judiciary.gov.hk/en/crt_services/business_hours_typhoon.htm#typhoon_warning))

## Part XVII Means of Contact

17.1. Where is the Probate Registry?

It is located at LG3, High Court Building, 38 Queensway, Hong Kong.

17.2. What is the telephone number of the Probate Registry?

Its 24-hour hotline is 2840 1683.

17.3. What is its facsimile number?

It is 2524 7737.

17.4. What is the website address?

Please visit <http://www.judiciary.gov.hk/>

17.5. What should I do if I have comments on the Probate Registry?

We always welcome suggestions and appraisals. You may wish to send them to the Judiciary Administrator by letter addressed to the High Court, 38 Queensway, Hong Kong. Please also do not hesitate to contact the Probate Registry if you have any query.

Judiciary  
October 2011  
(7th Edition)

## Typhoon and Rainstorm Warning Arrangements [with effect from 14 March, 2011]

### When Tropical Cyclone Signal No. 8 or above is issued

In general, the Courts/Tribunals would have the hearings adjourned when Tropical Cyclone Signal No. 8 or above is issued, and the court/tribunal registries and offices will also be closed.

### When Black Rainstorm Warning Signal is issued

In general, the Courts/Tribunals would have the hearings adjourned when a black rainstorm warning signal is issued before office opening hour, and the court/tribunal registries and offices will also be closed.

If such signal is issued during office hours, the Courts/Tribunals would have the hearings adjourned but the court/tribunal registries and offices will remain open.

### When Tropical Cyclone Signal No. 8 or above or Black Rainstorm Warning Signal is lowered or cancelled

#### Resumption of Court Proceedings

If the signal is lowered or cancelled at or before 6:00 a.m. on Monday to Friday and Saturday, the Courts/Tribunals will resume hearing at the usual time in the morning.

If the signal is lowered or cancelled between 6:00 a.m. and 11:00 a.m. or at 11:00 a.m. on Monday to Friday, the Courts/Tribunals will resume hearing at 2:30 p.m. So, if you are supposed to attend Court/Tribunal that morning, you are required to attend Court/Tribunal for the hearing at 2:30 p.m. on that day.

If the signal is lowered or cancelled after 11:00 a.m. on Monday to Friday or after 6:00 a.m. on a Saturday, hearings of the Courts/Tribunals will remain adjourned for the whole day. If you are supposed to attend Court/Tribunal on that day, you are required to attend Court/Tribunal at 9:30 a.m. the next day which is not a public holiday.

If the date on which the hearing of the Courts/Tribunals remains adjourned for the whole day is a Friday and if you are supposed to attend Court/Tribunal on that day, you are required to attend Court/Tribunal at 9:30 a.m. the next day, that is a Saturday, which is not a public holiday.

#### Re-opening of Court/Tribunal Registries and Offices

If the signal is lowered or cancelled at or before 6:00 a.m. on Monday to Friday and Saturday, the court/tribunal registries and offices will be opened as usual in the morning.

If the signal is lowered or cancelled between 6:00 a.m. and 11:00 a.m. or at 11:00 a.m. on Monday to Friday, the court/tribunal registries and offices will be re-opened at the usual time in the afternoon.

If the signal is lowered or cancelled after 11:00 a.m. on Monday to Friday, subject to the circumstances prevailing at the time, the court/tribunal registries and offices may be re-opened in the afternoon as soon as practicable. However, the court/tribunal registries and offices will remain closed for the whole day if such signal is lowered or cancelled 2 hours or less before the normal closing hour on Monday to Friday.

The court/tribunal registries and offices will remain closed if such gale or rainstorm warning signal is lowered or cancelled after 6:00 a.m. on Saturday.