



## Introduction

This unit deals with the way in which a person's estate (i.e. the totality of the property and other assets owned by him) can be distributed on his death. This process encompasses not only who is entitled to receive such property (this is called "succession on death"), but also who is entitled to administer the estate to ensure that it is properly distributed amongst those who are entitled to benefit. This course also deals with the procedure involved to obtain the authority necessary to be able to administer an estate.

This unit covers the law in outline to give you an understanding of the law and procedure of succession.

## Succession

Succession on death is concerned with the way in which a person's estate is dealt with after his death.

Succession may be handled according to any of the following arrangements:

- **Testate:** Where the Testator (the person who has made a Will – if the person is female, she is called a Testatrix) left a valid Will
- **Intestate:** Where a person dies without leaving a valid Will

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- **Partial Intestacy:** Where there is a valid Will in existence, but it does not dispose of all the deceased's estate and so the intestacy rules apply to the undisposed part of the estate

On the death of a person dying *testate* (i.e. leaving a Will), the Will itself will appoint an Executor (Executrix if the person is female) who is responsible for winding up the estate.

If a person dies *intestate* (i.e. without leaving a Will), then the court (in fact, the Principal or District Probate Registry, part of the High Court) will appoint an Administrator (Administratrix if the person is female) to wind up the estate. The Administrator will be the person (or persons) who will have the best right to inherit under the rules of intestacy (laid down by Statute – see explanation later).

Both Executors and Administrators are known as “Personal Representatives”.

In order to be able to administer the estate of a deceased, the Personal Representatives will have to obtain the necessary authority. This is done by applying for a Grant of Representation.

## Grants of Representation

Three main types of Grants of Representation can be obtained (there are others, but they are beyond the scope of this Course):

### Grant of Probate

Probate is granted where the deceased dies *testate*, leaving a Will. It is granted to an Executor, who proves the Will.

An Executor derives his power from the Will and can do any act towards winding up the estate before the issue of the grant. The grant perfects the Executor's title to do so. In view of this, the title (ownership) of all the assets of the deceased vests in the named Executor(s), in trust for the beneficiaries (i.e. those entitled to inherit under the Will), immediately upon the death of the deceased.

Note that a Grant of Probate does not confer upon the named Executor(s) authority to wind up the estate; it merely evidences that authority. The authority comes from the Will itself.

### Grant of Letters of Administration with the Will Annexed

In legal circles this is termed “Letters of Administration *cum testamento annexo*”. It is granted where there is a valid Will, but no Executor has been appointed to prove it, either because the Executor(s) named in the Will has died or does not want to act, or because no Executor was actually appointed in the Will.

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## Grant of Letters of Administration

Often referred to simply as a “Grant of Administration”, this is granted when the deceased died wholly intestate (i.e. without leaving a Will). A Grant of Letters of Administration has to be taken out before the estate of any person who dies without making a Will can be wound up.

### Power of the Grant

The Administrator derives his power from the grant itself and therefore has limited power pending its issue.

Until the grant is issued, title to all the assets of the estate vests in the President of the Family Division of the High Court. On the issue of the grant, the assets vest in the Administrators as trustees for all those entitled under the rules of inheritance.

If a deceased dies partially intestate (i.e. without leaving all his estate to named persons or organisations in his Will), then Letters of Administration do not apply. Instead, the matter is dealt with under the Grant of Probate taken out in respect of the Will, and the Executors will distribute the named assets of the estate to those entitled under the Will, and the unnamed assets of the estate to those entitled under the rules of intestacy.

**This is a preview of our course materials. For full access, enrol through our website [here](#).**

## Coursework Sample

### Assessment 1a

#### Produce a Draft Will

The formatting for draft documents is outlined in the Assessment criteria. Please follow these specifications when formatting your Will and be aware that this Will is set out in numbered paragraphs, not bullet points. If Word tries to automatically format your paragraphs into bullet points, you will need to manually turn this setting off.

The following is the dictation for the draft of the Will:

I CHARLES EDWIN SPENCER of 23 Runcorn Terrace Egham in the County of Surrey Company Director HEREBY REVOKE all Wills and Testamentary Dispositions heretofore made by me AND DECLARE this to be my last Will – new line – 1. I APPOINT my wife ANN ELIZABETH SPENCER to be the sole Executrix of this my Will – new line – 2. IF my said wife shall predecease me or otherwise cannot or will not act as my Executrix then I appoint my son RICHARD DUDLEY SPENCER and my Solicitor MONTAGUE CARMICHAEL to be joint Executors of this my Will – new line – 3. I DIRECT that any Executors of this Will being a Solicitor, or a person engaged in any other profession may charge and be paid all proper professional charges for any work done by him or by his firm in connection with my Estate including work which as Executors not being a Solicitor or other professional could have been done personally – new line – 4. I DEVISE my freehold land and premises known as Summer Lodge Sandy Bay Brinkmouth in the County of Dorset to my said son RICHARD DUDLEY SPENCER in fee simple – new line – 5. I BEQUEATH my leasehold house and premises known as 12 The Crescent Bath in the County of Avon to my daughter CAROL ANN SPENCER for all the unexpired term of the Lease under which the same is held – new line – 6. I GIVE AND BEQUEATH the following specific legacies – new line – (a) To my dear friend GORDON HUGHES my golf clubs, golf bag and golf trolley, in the hope that they will improve his game! – new line – (b) To my nephew DAVID SULLIVAN my silver and pearl cufflinks – new line – (c) To my son RICHARD all motorcars that I may own at my death – new line – (d) To my said daughter CAROL all my Ordinary Shares in British Oxygen – new line – (e) To my beloved granddaughter JASMINE SPENCER all my Premium Bonds - new line – 7. I BEQUEATH the following pecuniary legacies – new line – (a) To my said son RICHARD and my said daughter CAROL the sum of TWENTY FIVE THOUSAND POUNDS (£25,000) each – new line – (b) To my sister DAPHNE SULLIVAN the sum of FIFTEEN THOUSAND POUNDS (£15,000) – new line - (c) To my beloved granddaughter JASMINE the sum of FIFTEEN THOUSAND POUNDS (£15,000) together with interest thereon when she shall reach the age of 18 years – new line – (d) To my said nephew DAVID the sum of EIGHT THOUSAND POUNDS (£8,000) when he shall reach the age of 18 years – new line – 8. I GIVE DEVISE AND BEQUEATH all the residue of my Estate both real and personal whatsoever and wheresoever to my beloved wife ANN with gratitude for her love and friendship but if she should predecease me or not survive me for a period of 30 days then I give devise and bequeath the said residue of my Estate to my Executors UPON TRUST to sell the same with powers to postpone the sale

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UPON TRUST for my said children RICHARD and CAROL in equal shares PROVIDED THAT if either of my said children shall predecease me leaving issue living at my death whether legitimate or illegitimate then such issue shall take their parents' share in equal shares per stirpes – new line – 9. I DECLARE that I wish to be buried in the burial plot already purchased in my name at the Church of St Peter overlooking Sandy Bay Brinkmouth Dorset and under no circumstances do I want to be cremated – new paragraph – IN WITNESS whereof I the said CHARLES EDWIN SPENCER have to this my last Will set my hand this [blank] day of [blank] 20XX – new paragraph – SIGNED AND ACKNOWLEDGED by – new line – the above named CHARLES EDWIN – new line – SPENCER as and for his last Will in the – new line – presence of us both present at the same – new line – time who at his request in his presence – new line – and in the presence of each other have – new line – hereunto subscribed our names as – new line – witnesses

**This subject includes ten practical assessments in total, which help learners to develop essential Legal Secretary skills. Learners are provided with full instructions on how to complete each assessment, and information is included within the assessment criteria to support successful completion.**

**A multiple-choice achievement test is also included to assess overall knowledge and understanding.**