

When a non-UK domiciled person dies with property situated in England and Wales, the person dealing with the deceased's estate will need authority to administer the property in this jurisdiction. This can be achieved through obtaining an English "*grant of representation*" (usually known as "*grant of probate*") but in certain circumstances, it may be possible to reseal a foreign grant of probate, which is usually a quicker and easier process.

When can a foreign grant be resealed?

This will depend on the jurisdiction in which the foreign grant of probate was issued; the complete list is included in the *Colonial Probates Act 1892* and includes Gibraltar, Hong Kong, Singapore, Canada, New Zealand, Australia, and a number of Caribbean and African countries. A Northern Irish or Scottish grant of probate which states that the deceased died domiciled in Northern Ireland or Scotland is recognised in England and Wales without the need for resealing.

Documents required

To reseal a foreign grant of probate, an application to the Probate Registry for England and Wales must contain the following documents:

- The original foreign grant of probate or official duplicate or exemplification, and an official copy of the Will (and two photocopies of each);
- A notarial translation of the Will, if it is not in English;
- A written request from each grantee for the grant of probate to be resealed and confirming the deceased was domiciled in the country where the grant was issued. If another individual is applying on behalf of the grantee, a letter of

authority or power of attorney will be needed, naming the person applying for the reseal;

- If a full inheritance tax ("IHT") account is required, then this must be sent to HM Revenue & Customs first to obtain a receipted IHT421 form before applying for the reseal. In other cases, the IHT account for "excepted estates" will be sufficient.

What is the process if resealing is not available?

If the deceased is domiciled in a jurisdiction not covered by the *Colonial Probates Act 1892*, such as another European jurisdiction or in a US state, it will not be possible to reseal the grant of probate in England and Wales. If no grant has been issued in another jurisdiction or a foreign grant of probate cannot be resealed, it may be possible to apply for an English grant of probate. The procedure depends on whether the deceased left a Will and whether that Will is admissible to proof in England and Wales.

If the deceased left a will

If a valid will is left by the deceased, the personal representatives named will be able to apply for the grant.

The documents required are:

- The original will with a notarial translation to English if required.
- A paper probate application;
- A witness statement providing evidence establishing the will is admissible to proof in England and Wales; and
- If a full IHT account is required, then this must be sent to HM Revenue & Customs first to obtain a receipted IHT421 form before applying for the reseal. In other cases, the IHT account for "excepted estates" will be sufficient.

If the deceased did not leave a valid will

If the deceased did not leave a valid will, an order may be granted by a district judge or registrar to a person dealing with the administration of the estate where the deceased was domiciled, to any person directed by the district judge or registrar or to the person who is beneficially entitled to the estate where the deceased was domiciled.

The documents required are similar to those required where the deceased left a valid will.

Where the entirety or majority of the deceased's estate in England and Wales consists of immoveable property, statutory rules will apply which set out the order of priority of who is entitled to take out a grant of letters of administration.

How we can help

Our team has significant experience in administering UK estates for individuals who are domiciled overseas and our wealth of global contacts ensures our clients a unified approach when it comes to dealing with multi-jurisdictional issues.

We can assist with every aspect of the estate administration in the UK and we will work closely with our client's professional advisors in overseas jurisdictions to ensure a streamlined process for administering the worldwide estate. We are used to being appointed as the lead lawyers when administering multi-jurisdictional estates and so can help project manage the worldwide administration from start to finish.

CONTACT US

For more information on resealing a foreign grant of probate or applying for an English grant of probate for a non-UK domiciled individual, please contact Nick Mendoza, Emily-Jane Lee or your usual Wedlake Bell adviser.

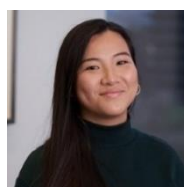


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