



In the Supreme Court of Bermuda

21 AUGUST 2024

CIRCULAR NO. 29 OF 2024

TO ALL ATTORNEYS AND THE GENERAL PUBLIC

PROBATE DIVISION

The purpose of this Circular is to provide attorneys and the general public with an update in relation to the current status of probate applications and the procedures moving forward.

The Chief Justice, Registrar and the Probate Division team held a meeting with the probate practitioners of the Bermuda Bar earlier this year when issues in relation to probate matters were discussed along with proposals for the way forward. It was resolved that a Probate User Committee would be established by the Bermuda Bar so that attorneys and the Courts can work closely to eliminate the backlog as well as find ways to increase the efficiency of processing applications once the backlog is cleared.

Status of Probate Applications

- (1) As most practitioners will be aware, the Probate Division is working through a backlog of probate applications. We are currently focusing on outstanding applications up to the period ending 31 December 2022. It is anticipated that these will be addressed by 30 November 2024 at the latest.
- (2) Urgent applications which have been approved to be expediated which were filed in 2023 and 2024 will continue to be addressed within three (3) weeks after approval for expedition is obtained.
- (3) Additional members of staff are being onboarded as soon as practicable who will, in addition to the current staff on the Estates Team, be solely responsible for addressing the backlog of applications.
- (4) Once the applications submitted prior to 31 December 2022 have been substantially completed, then 2023 and 2024 non-urgent applications will be processed. We intend to issue a further circular in early 2025 to provide an update on the processing of 2023 and 2024 probate applications.
- (5) A new email address has been created which is dedicated solely to correspondence regarding estate applications. If correspondence is being sent electronically to the Court (as well as hard copies being filed) please send to: probate@gov.bm. All email correspondence with the Court regarding estate applications must include this email whether it is being sent to a specific member of the Estate Team or not. Therefore,

there is no longer a requirement to use the generic Supreme Court email address at supremecourt@gov.bm in relation to estate matters.

Urgent Applications

- (6) If you require your application to be processed urgently, the cover letter **must** include a fulsome explanation as to why the application should be expedited. Supporting evidence must also be provided. For instance, if there is a pending sale of property, a copy of the Sale and Purchase Agreement should be attached to your letter.
- (7) It will be at the sole discretion of the Registrar to determine if the application should be prioritized. Confirmation that an application will be prioritized will be provided within two (2) weeks of filing the application and the request for the application to be expedited. The request must include the completed application and all supporting documents.
- (8) The Registry will aim to process all applications that have been determined urgent within three (3) weeks from the date that confirmation is provided to the attorney that the application will be prioritized.

General Procedural Requirements

- (9) It is no longer required to provide a reason for delay for an application made where more than 12 months has passed from the date of death.
- (10) Requests are regularly received via email and/or by hard copy correspondence seeking confirmations that applications have been received. If counsel or an applicant wish to retain a copy of the application for his or her records showing the date/time stamp when the application was filed, please provide an extra copy which can be immediately returned at the time of filing. Resources will not be expended on responding to these requests by email or otherwise.
- (11) Every Will in respect of which an Application for a Grant is made shall be marked by the signatures and not the initials of the Applicant and the person before whom the Oath is sworn. See Rule 7 of the Non-Contentious Probate Rules 1974.
- (12) Please inspect the condition of Will to ensure that it does not bear any marks or evidence suggesting that another document may have been attached. See Rule 12(2) of the Non-Contentious Probate Rules 1974. If there are any such marks evident the Oath must speak to the condition of the Will.
- (13) Please ensure that the finalized Application is dated and signed; that the Jurats for the Oath and Affidavit of Value are dated and signed and that the correct filing fees are affixed in revenue stamps. Kindly note Jurats should not be placed on a page by themselves without a portion of the relevant document included on that page.

- (14) Pursuant to Circular No. 11 of 2007, attorneys are reminded that an application should only be submitted in draft form for settling by the Registrar when it involves complicated issues of law or fact, or when it would be difficult to re-swear supporting affidavits. Where applications wish to be submitted in draft form, advance approval must be sought from the Registrar and where the Registrar approves the request, the approval must be sent attached with the draft form application. The submission of draft applications which have not been preapproved will be returned accordingly.

Appreciation is given to the patience and understanding that attorneys and members of the public continue to show regarding the Court's' position. All should be assured that the current backlog of applications continues to be prioritized by the Courts as we understand the importance and sensitivities surrounding estate applications. The Courts are also prioritizing revising our processes and procedures to ensure that this does not occur in the future. As we work on the procurement of a new electronic court case management system, we are desirous that probate applications will become a form-driven online application which will reduce the opportunities for error and delay.

Dated the 21st day of August 2024



CC: The Attorney-General's Chambers
Department of Public Prosecutions
Hamilton Police Station
Commissioner of Police
Commissioner of Corrections
Magistrates Court
Bermuda Bar Association
Legal Aid Office

ANW/ct