

Transmission on Death

Where the owner of registered land, lease or mortgage (sole owner or registered as tenants-in-common) dies the land vest in the personal representative of the deceased owner. The personal representative of a deceased registered proprietor (whether sole owner or registered as a tenant-in-common) may apply to the Registrar of Titles pursuant to Section 130 to be registered on Transmission. The personal representatives are persons to whom Probate (if the deceased testate, that is died leaving a valid will) or Letters of Administration (if the deceased died leaving no will, intestate) has been granted by the Court. The personal representative must make an application by way of Transmission to the Registrar of Titles before he can deal with the land and for the purposes of any dealing is deemed the absolute proprietor of the land.

Rules of Survivorship Governing Personal Representatives

If probate or Letters of Administration has been granted to more than one personal representative all of them must make the application. If there is more than one personal representative or executor registered on transmission then the rule of survivorship applies if one dies. If a surviving executor appointed by the court dies then his executor can continue with the business of the estate and apply to be registered on Transmission. In such instances the executor seeking to be registered on Transmission should prove that the executor of whom he is executor was a sole executor or the last surviving executor.

If an administrator is appointed by the court under Letter of Administration and then dies, the administrator's personal representative cannot apply to be registered on Transmission but rather a grant of Letters of Administration *de bonis non* should be submitted.

If one or more of the personal representative named in the grant dies before being registered on transmission proof of death should be submitted and such personal representative accounted for in the application.

Section 60 and Transmission Applications

The personal representative is deemed the absolute owner of the property once registered on transmission. Section 60 of the Act forbids the notation of any trust whether express or implied on the face of the Title by the Registrar of Titles, consequently if a new title is being issued in the name of the personal representative(s) then he/she will appear as the owner in fee simple.

Section 132

If the personal representative of the deceased proprietor assents to a devise of the land to the beneficiary of the estate then such devisee/beneficiary may apply to be registered on Transmission provided that the personal representative have not been registered on Transmission. The application is similar to the application by the personal representative and the assent to devise must be produced.

Grants

An original or an attested copy of the Grant of Probate and Copy will or Letters of Administration by the court must be attached to the application for registration on transmission. If the applicant desires the return of the original grant then a copy of the grant should be submitted and same certified by a signing officer as a true copy of the original.

Grants of Probate or Letters of Administration issued out of Commonwealth jurisdictions must be resealed in the Supreme Court of Jamaica. Otherwise a grant of representation out of a Court in Jamaica is required.

If a grant was issued to in the name of an attorney of the personal representative then the proper person to apply is the attorney until a grant has been issued in the name of the personal representative.

Application Form

1. The transmission application must contain the name and full address of the applicant and the capacity in which they are applying. The name of the personal representative in the grant of probate or letters of administration must be consistent with the name in the application document. If there is any discrepancy then confirmation that they are one and the same person should be provided.
2. The name of the registered owner in the certificate of title should also be consistent with the name of the deceased in the grant of probate or letters of

- administration. If there is any discrepancy confirmation of identity and that they are one and the same person will be required.
3. The date of the grant and the date of the death of the registered proprietor are also required.
 4. Description of the property according to the certificate(s) of title.
 5. The personal representative should also apply to the Registrar to be registered on Transmission.

Value

The value of the land as at the date of death of the deceased must be stated.

Outstanding Encumbrances

The applicant should set out any outstanding mortgages or encumbrances which affect the certificate of title.

Effect of Registration on Transmission

Upon registration by virtue of Section 130 the personal representatives becomes the transferee of the land, lease or mortgage and is deemed to be the absolute registered proprietor thereof. Consequently the Registrar of Titles neither has the duty nor is entitled to enquire as to how the deceased property is being distributed. If the personal representatives however executes a transfer in accordance with section 88 of the Transfer in pursuance of a devise contained in the will of the deceased owner

then the Registrar may verify that this is so by perusing the probate to be produced by the transferor. Otherwise the Registrar will always assume that the personal representative is acting within their powers.

Payment of Death Duties

Pursuant to Section 133 of the Registration of Titles Act the applicant should produce a certificate issued by the Stamp Commissioner which verifies whether or not estate duties and transfer tax on death (Section 33 of the Transfer Tax Act) have been paid. The transmission application should first be submitted to the Stamp Office before it is lodged with the Registrar of Titles. The application will be cross-stamped and signed by the Stamp Commissioner.

Fee

Fee No. 3. The fee on lodging the application for registration on transmission is dependent on the value of the land stated in the application however it shall not exceed One Thousand Dollars (\$1,000.00).

General Notes

The application form is readily available on our website www.nla.gov.jm or the intranet.