

Glossary of Terms

Abatement A pro rata reduction among creditors (or Legatees) when the funds available are not sufficient to satisfy the creditors (or the Legatees).

Ademption The sale or other disposition by the Testator, during his or her lifetime, of the subject-matter of a specific legacy.

Administration The process of dealing with the Estate of a deceased person, Eg collecting the assets, paying the debts and taxes and distributing the balance of the Estate amongst the persons entitled.

Administrator A person appointed by the court to administer the Estate of an intestate, or of a testator when an executor has not been appointed or the named executor will not or cannot act.

Advancement A payment or a distribution to a beneficiary of a part of his/her share of capital before the time fixed for his/her attainment of an absolute interest in possession.

Appropriation The application of property, Eg for or towards the satisfaction of a legacy or annuity.

Attestation clause A statement made at the end of the Will above the signatures of the witnesses, which declares that the Will has been duly signed in the presence of the witnesses, who attest the Will and sign it in the presence of the testator and of each other.

Bequest Gift by Will of pure personalty, ie legacy.

Breach of trust Any act carried out, in relation to a trust, by a trustee which he or she is not entitled to do, either by the terms of the trust, or by the rules of equity or by statute, or the omission to do any act that should have been carried out in relation to the trust.

Caveat A notice in writing to the Registrar warning him or her not to issue a grant of probate without giving notice to the individual lodging the caveat (the caveator) or his/her solicitor.

Chattels Personal property, chattels personal are movable things and chattels real are leasehold interest in land.

Codicil A document executed by a testator subsequent to a Will and or referring to the Will with the object of adding to, cancelling or altering, the provisions of the Will.

Commorientes Persons who die together - at the same time.

Contingent legacy A legacy which transfers no interest at all unless a specified but uncertain event happens.

Cumulative legacy A legacy which is additional to one previously awarded to the same legatee.

Glossary of Terms

Cy-pres Name given to the doctrine relating to charities whereby effect is given as nearly as may be to an intention of a donor or testator which cannot be carried out literally.

Devolution The passing of property by process of law.

Double probate Where some of several executors to a Will do not prove, they may obtain a grant of probate later, such a grant being termed a double probate.

Equitable apportionment A rule of equity deemed to carry out the unexpressed intention of the testator in order to give effect to and protect the respective rights of the life tenant and the remainderman.

Estate A term meaning the property of the deceased person to which he/she is beneficially entitled.

Excepted estates Certain small non-complicated estates in respect of which no formal HM Revenue & Customs account need be submitted for IHT purposes.

Executor A [male] person appointed by a Will to administer the Estate of a deceased person.

Executrix A [female] person appointed by a Will to administer the Estate of a deceased person.

Executor's oath An affidavit sworn by an executor, declaring among other things, that he/she believes the Will to be the true last Will of the deceased and that he/she will carry out all the duties of administration.

General legacy A legacy which cannot be specifically identified by the personal representative, eg a gift of £200 or a picture (where the testator does not refer to any particular picture).

Gift inter vivos An unconditional gift of property made prior to death.

Holograph Will A Will entirely in the handwriting of the testator.

Implied trust A trust implied from the presumed, but unexpressed, intention of a party.

Intestate A person who has died without making a valid Will.

Issue All lineal descendants of a person.

Joint tenancy Concurrent interest in property where the same interest is held under the same instrument by two or more persons in the same right, with the right of survivorship incidental. Joint tenants have one estate in the whole, not in shares (see Tenancy in common).

Lapse The failure of a legacy or devise owing to the death of the legatee or devisee before the testator, except where the deceased legatee or devisee was a descendant of the testator and left issue of his own which survived the testator.

Legacy A gift of pure personal property by Will.

Glossary of Terms

Legal personal representative The executor or administrator of the Estate of a deceased person in whom is vested the administration and distribution of the Estate.

Maintenance The application by the trustees, for the benefit of the beneficiary, of the whole or part of the income from property held in trust.

Noncupative Will A Will made orally before witnesses.

Partial intestate A person who has died without wholly disposing of his/her property by Will.

Perpetuity A limitation which must vest after the utmost period allowed by law.

Personal chattels All household furniture and personal effects, except goods used for business purposes, money, bank balances or securities for money.

Per stirpes By families, ie by representation of a dead claimant by his/her issue taking his/her share.

Power of appointment An authority given to some person (called the donee of the power) to nominate the person who shall take certain specified property belonging to the person creating the power (called the donor of power).

Probate The legal recognition of the validity of a Will.

Remainderman The person who takes the capital of an Estate on the death of the life tenant.

Residuary legatee The person who takes the remainder of the personal property after the payment of all debts and legacies payable thereout.

Resulting trust Trust of which the beneficial interest results or returns to the creator of the trust.

Reversionary interest Any right to the ownership of property at a future date.

Satisfaction The gift of a thing in extinguishment of a prior claim.

Settlement An arrangement by which property is held on trust, generally for several beneficiaries in succession, some of them unborn at the time of making the settlement.

Specific legacy A gift of a thing identified by the testator in his/her Will.

Statutory trusts The trust upon which, under section 47 Administration of Estates Act 1925, the residuary Estate of an intestate is held for the benefit of the class of relatives entitled thereto, until they attain an absolutely vested interest.

Substitutional legacy A gift of personalty made in lieu of a previous gift, where the testator indicated that it was not his/her intention that the legatee should take both gifts.

Successor The person entitled to the beneficial interest passing under a devise of freehold or leasehold property.

Glossary of Terms

Tenancy in common Concurrent interests in property where the tenants have several distinct, though undivided, interests in respective parts of the property (see joint tenancy).

Testamentary expenses The expenses incurred in obtaining probate or letters of administration, paying Inheritance Tax and debts, and realizing the assets.

Testatrix A female person who makes a Will.

Testator A male person who makes a Will.

Trust A trust is an arrangement by which property is handed over to one or more persons called trustees, or validly declared by the owner to be held by himself as trustee, to be applied for the benefit of some other person, or persons, called beneficiaries, of whom any trustee may be one.

Trust Corporation The Public Trustee or any corporation either appointed by the court in any particular case to be a trustee or entitled to act as a custodian trustee under the Public Trustee Rules 1912.

Trustee The person who holds property on behalf of another person and to whom is committed to the administration of a trust.

Trustee securities Those securities in which trustees are permitted to invest trust moneys by virtue of the provisions of the Trustee Act 1925 (as amended by the Trustee Investment Act 1961).

Vested Legacy A legacy which transfers an immediate title to the legatee, even though the payment is deferred to some future date.

Warning A notice entered by an executor at the Principle Probate Registry and served upon a caveator, calling upon him/her to enter an appearance within six days to show cause why probate should not be granted.

Will Any valid declaration of a person's intentions as to property which he or she can dispose of after his or her death, which he or she requires to be performed after his/her death.