

WILLS⁴GOOD IN ASSOCIATION WITH
BENEFICIAL TRUST & WILL COMPANY

JARGON

BUSTER

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

Ad colligenda bona defuncti A grant of administration for the preservation of property made in order to protect the assets during a delay in the application for a grant.

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

Ad litem A grant of administration for the purpose of an action, in order that the Estate may be represented in the action.

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.

Aggregation The adding together of all property (with certain exceptions) which passes, or is deemed to pass, on the death of an individual, in order to determine the rate of Inheritance Tax.

Ambulatory (of a Will) The quality of revocability at any time before death.

Ancillary Probate A subsidiary grant of probate given in respect of a grant of probate obtained abroad, giving powers of administration of the foreign executor over movable property in the United Kingdom.

Animus revocandi The full and free intention to revoke a Will.

Animus testandi The full and free intention to make a Will.

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.

Authorized securities Those securities in which trustees are permitted to invest trust monies by the Trustee Act 1925, or by other statute, and any other securities which are expressly authorized by the Will which created the trust.

Bequest Gift by Will of pure personalty, ie legacy.

Bona vacantia Ownerless property which passes to the Crown or the Duchy of Cornwall or of Lancaster.

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.

Cessate grant A supplementary grant of administration made after a grant limited in duration has expired by the effluxion of the time for which it was granted.

Cesser of interest The determination of an interest, which thereupon passes to another.

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

Chose in action Property consisting of a right to sue in the courts to enforce a claim.

Chose in possession Property consisting of rights over things actually in possession.

Citation A notice issued by an executor applying for probate in solemn form calling upon every person who could possibly benefit from the invalidation of the Will, to appear and show cause, if any exist, why probate should not be granted.

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.

Contingent Will A Will which is to come into operation only if a specified but uncertain event happens.

Cum div A quotation relating to stocks or shares, indicating that the price includes all dividends or interest accrued to date.

Cum testamento annexo A grant of administration, with the Will attached, which is made where the testator does not nominate an executor in his Will, or when the executor nominated will not or cannot obtain a grant of probate.

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

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.

De bonis non administratis A grant of administration over the property not yet administered.

Demonstrative legacy A pecuniary legacy payable out of a specific fund.

Dependent relative revocation The ineffective revocation of a Will under a misapprehension as to the effect of the revocation or destruction.

Devastavit A breach of trust involving loss to the Estate.

Devise A gift by Will of real or leasehold property.

Devisee The person entitled to a devise.

Devolution The passing of property by process of law.

Donatio mortis causa A gift of pure personalty made by a person who is expecting to die, on the understanding that if the death does not occur, the gift is to be void.

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.

Durante absentia A grant of administration made during the absence abroad of the legal personal representative, the grant operating until the personal representative returns within the jurisdiction of the High Court.

Durante dementia A grant of administration made during the temporary insanity of the sole legal personal representative.

Durante minore aetate A grant of administration during the minority of the sole legal personal representative.

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 Inland Revenue account need be submitted for IHT purposes.

Ex div A quotation in respect of stocks or shares, indicating that the price does not include any dividend or interest accrued to date.

Executed trust A trust in which the settlor has given detailed provisions of the trusts created by the instrument.

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

Executor according to the tenor A person *nominated by implication* in a Will to act as executor, eg where a person is requested to perform acts which are normally performed by an executor.

Executor de son tort A person who interferes with the property of a deceased person by performing duties which are normally those of a personal representative.

Executor's assent Any act, express or implied, on the part of an executor which shows his/her intention to part with his/her interest in the legacy or devise in favour of the legatee or devisee.

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.

Executor trust A trust which the settlor has not given detailed provisions of the trust but has left it to the trustees or beneficiaries or the court to interpret his/her broad instructions into detail.

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.

Grant save and except A grant of probate entitling the executor to administer that part of an Estate not reserved for a second executor to administer.

Grant caeterorum A grant of administration or probate giving powers of administration over the rest of the Estate not covered by other grants.

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.

In loco parentis In the position of a parent.

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.

Latent ambiguity Hidden double meaning.

Legacy A gift of pure personal property by Will.

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.

Marshalling the assets Arranging the assets in the proper order of application where the Estate is solvent but insufficient to meet all legacies and devises.

Noncupative Will A Will made orally before witnesses.

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

Patent ambiguity Obvious, or unhidden, double meaning.

Pendente lite A grant of administration made while an action is pending regarding the validity of a Will.

Per capita By heads, ie according to the number of beneficiaries.

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.

Personalty All movable property, ie furniture, trade stocks, money, private business and share in partnership and securities and leasehold interests; all property except real property.

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

Portion A gift made by a father or person *in loco parentis* to one of his children, or to a person to whom he has placed himself *in loco parentis*, with the intention of discharging the moral obligation to provide for the child.

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).

Preference The right of a personal representative (except a creditor/administrator) to pay any one creditor of a particular class before another of the same class.

Probate The legal recognition of the validity of a Will.

Realty All interests in land other than leasehold interests.

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

Residuary devisee The person who takes the remainder of the real property after the payment of all debts and legacies charged on such property, and after the satisfaction of all gifts of such property.

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.

Retainer The right of an executor to retain a debt due to himself in preference to other creditors of equal degree.

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.

Sui juris Of full legal capacity.

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.

Testator A 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 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.