



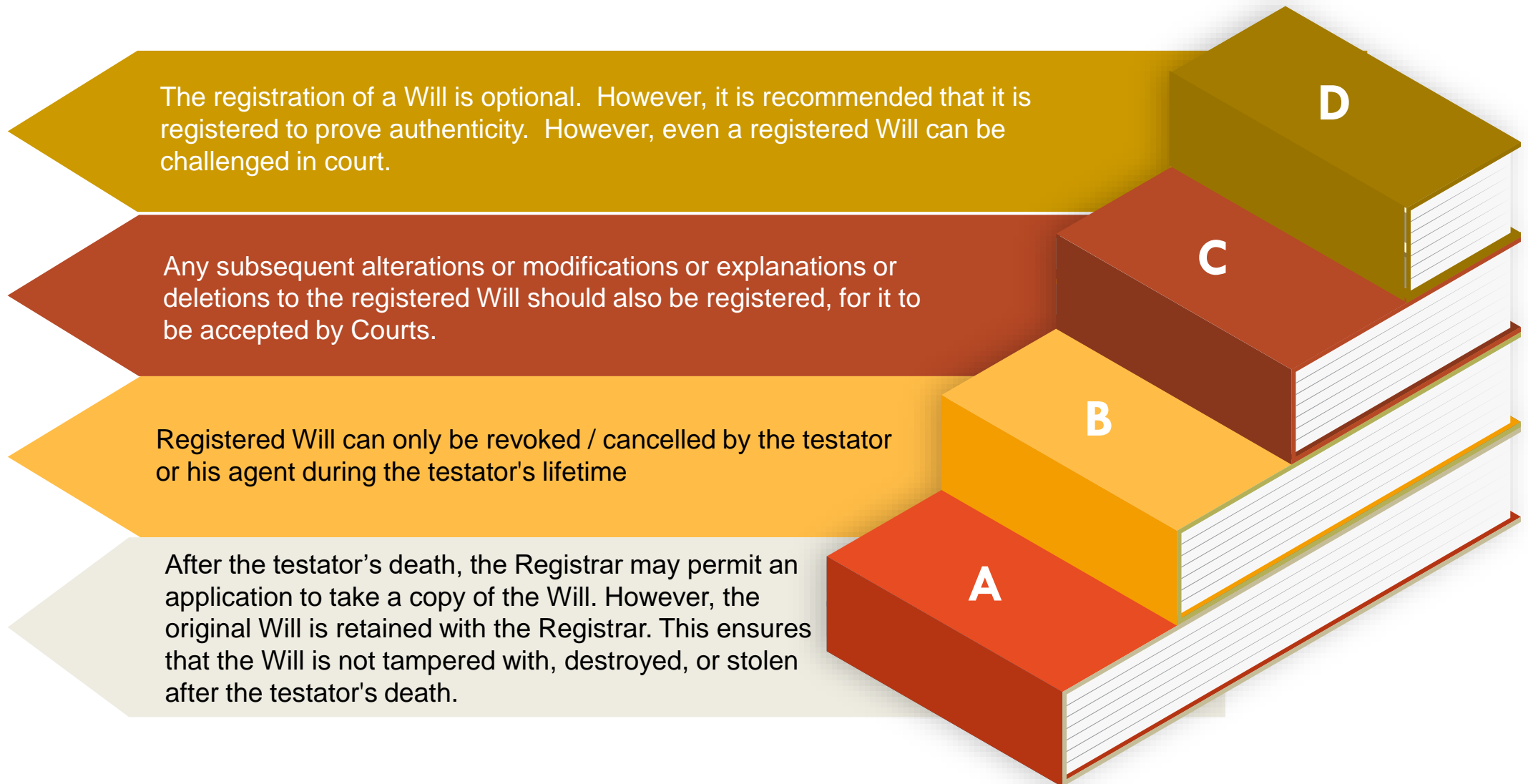
M2K Advisors



Registration of a Will, Probate and Letter of Administration – Wills

SUCCESSION PLANNING SERIES #13

Registration of a Will



Probate

- The application for a probate, can **only be made by the executor(s) appointed (expressly or by implication)** in the Will.
- Probate is a **certification from the competent court declaring the legality and genuineness of the Will** and it is obtained by the executor to distribute the assets as directed in the Will.
- **A probate** of a Will establishes it from the death of the testator, **validates all the intermediate acts of the executor.**
- Probate is mandatory for establishment of right as executor where a Will is made by a Hindu, Buddhist, Sikh or Jain **within the jurisdiction of high courts of Chennai, Kolkata and Mumbai.**
- Further, probate is mandatory where a Will is made by a Hindu, Buddhist, Sikh or Jain **and includes an immovable property situated** in the jurisdiction of high courts of Chennai, Kolkata and Mumbai.
- Application for probate can be **applied only after the expiry of 7 clear days of death of the testator.**
- An **application needs to be made by the executor** in the relevant court along with necessary documents like proof of legal heirs, proof of death of testator, etc. to obtain probate. Further, **applicable court fee needs to be paid for obtaining probate.**
- Generally, it takes **6-9 months to get a probate** (provided it is not contested).



Letter of Administration

Application for letter of administration can be made in following circumstances:

- When there is no Will
- When no executor is appointed in the Will
- When executor refuses to act or is legally incapable to do so
- When the executor dies prior to administration of the estate
- When executor declines or fails to accept executorship within the prescribed time period



01

Letter of administration is an official court document issued for the purpose of giving authority to a person to administer the estate of the testator.

02

Where the testator does not mention any executor in the Will, the beneficiaries of the Will have to file an application for letter of administration.

03

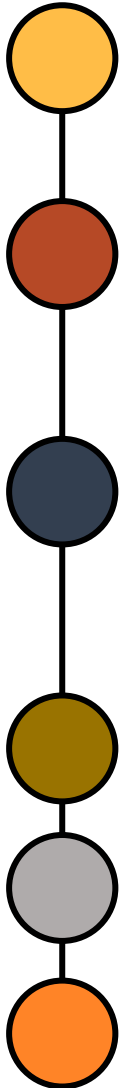
In case when a person dies intestate, then the heirs of the intestate files an application seeking administrative rights pertaining to the deceased estate for letter of administration.

04

Application for letter of administration can be made only after the expiry of 14 clear days of death of the testator.

Letter of Administration

Steps to obtain Probate / Letter of Administration



Application for probate / letter of administration has to be made to the competent court along with the Will through a lawyer.

Supporting documents required while submitting the application for probate / letter of administration are government identity proofs with address of testator, beneficiaries, executors (preferably Aadhar), death certificate of testator, legal heir certificate, property documents (along with property tax receipt) and other necessary documents as required by the court.

The application for probate / letter of administration should have following details:
(a) The time and place of the testator's death; (b) the family or other relatives of the deceased, and their respective residences (c) copy of the last Will of the testator (d) total amount of assets which are likely to come to the petitioner's hand; and (e) the petitioner should be the executor or beneficiary mentioned in the Will.

The petitioner shall pay applicable court fee depending upon the value of assets. After receipt of the petition, the court issues notice to the heirs of the assets to file their objection, if any, to the grant of probate.

A public notice needs to be given in a newspaper.

On the satisfaction that the Will in question has been validly executed, the court will grant probate / letter of administration to the executor / beneficiary named in the Will.



Succession Knowledge Series

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#4 [Rules of Intestate Succession Male - Part 1](#)

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