

## APPLYING FOR PROBATE AUTHORISATION IN ENGLAND AND WALES

ACCA is an approved regulator in respect of probate activities under the Legal Services Act 2007 (the Act). This means that ACCA can authorise members and firms to undertake the reserved legal activity of probate in England and Wales.

ACCA is exploring opportunities for members and firms to provide a broader range of legal services that meet the regulatory objectives of the Act. For further updates, please visit the Legal Services section of ACCA's website at

<https://www.accaglobal.com/gb/en/member/sectors/smp/practising-certificates-and-licences/legal-services/probate-req.html>

### **INTRODUCTION**

Individuals wishing to apply for authorisation for probate are required to hold a legal activities qualification. Members of ACCA must hold a practising certificate and have successfully completed a relevant course and assessment covering specific areas of probate work.

Individuals who are not members of ACCA can also apply for probate authorisation and must hold (or be eligible to hold) probate authorisation with another approved regulator, or have completed a relevant course and assessment covering specific areas of probate work, or be otherwise entitled to carry on probate activities under the Act.

Firms wishing to apply for probate authorisation must apply for a Firm's Legal Activities Certificate (FLAC). Individuals are not eligible to undertake probate work through ACCA unless the firm(s) in which they practise holds a FLAC. ACCA is not a licensing authority and can only authorise firms where **all** the partners, directors and shareholders are authorised for probate activities. However, a firm may set up a separate entity to undertake probate work to make it easier to ensure that all the partners/directors are authorised for reserved legal activities.

ACCA's Legal Activities Regulations (LARs) 2018 are contained in the [ACCA Rulebook](#).

ACCA can only authorise individuals and firms for non-contentious probate (i.e. grant of probate or letters of administration only). ACCA cannot authorise individuals and firms for contentious probate (i.e. oppose a grant of probate or letters of administration).

### **ELIGIBILITY CRITERIA**

The LARs apply to all members and firms that satisfy the relevant eligibility requirements. They apply to probate activities carried on in England and Wales only. So the LARs do not apply to Scotland or Northern Ireland.

Regulations 4 and 6 of the LARs set out the eligibility and qualification requirements for individuals. Regulation 5 of the LARs sets out the eligibility requirements for firms. These are summarised below:

#### **Individuals**

As an **ACCA member** you are eligible to carry on probate activities only if you:

- are a member
- hold a practising certificate
- demonstrate an appropriate level of competence to carry out probate work, and
- complete an application form to register as an Authorised Legal Activities Individual (ALAI)

As a **non-ACCA member** you are eligible to carry on probate activities only if you:

- are a member of another IFAC body
- are entitled to practise accountancy
- hold, or are eligible to hold, probate authorisation with another approved regulator, or demonstrate an appropriate level of competence to carry out probate work
- intend to undertake probate work in a firm that holds, or is applying for, a FLAC from ACCA, and
- complete an application form to register as an Authorised Legal Activities Individual (ALAI)

Separate application forms for members and non-members to register as ALAIs are available on ACCA's website at <https://www.accaglobal.com/uk/en/member/sectors/smp/practising-certificates-and-licences/practitioner-forms.html>

On the application form you must provide details of the probate course and assessment you have completed in order that ACCA can assess your eligibility for probate authorisation. Non-members who hold probate authorisation with another approved regulator under the Act must provide evidence of this, or details of the probate course and assessment they have completed.

The ACCA probate course and assessment is offered by Kaplan Altior and is available Live Online to ACCA members who hold a practising certificate. Further information can be found at <https://altior.co.uk/public-training-programmes/course-directory/acca>. Other probate courses and assessments may also be acceptable and details and a list can be found in the related downloads.

A confirmation letter will be issued to the individual once the application has been approved and accepted by ACCA.

There is no fee for an individual to register as an ALAI but a fee is payable by the firm for a FLAC (see below).

Individuals are required to maintain their competence in probate by carrying out an appropriate proportion of probate related CPD.

### **Firms**

A firm (i.e. sole practice, partnership, limited company or LLP) which intends to provide probate services in the name of the firm must obtain probate authorisation from an approved regulator for probate activities. ACCA can authorise firms through a FLAC.

A firm is eligible for a FLAC only if:

- all the partners, directors and shareholders are authorised for probate activities, or all of the members and designated members of a LLP are authorised persons, or if the firm's affairs are managed by a board of directors, committee or other management body, all of that body are authorised persons
- it completes an application form for a FLAC
- it pays the required fee.

Only partners, directors and shareholders, and any employees wishing to be responsible for probate work, who hold a Legal activities qualification in probate are eligible to apply to become authorised individuals. Consultants and sub-contractors are not eligible to apply.

The application form for a FLAC is available on ACCA's website at <https://www.accaglobal.com/uk/en/member/sectors/smp/practising-certificates-and-licences/practitioner-forms.html>

The fee for a FLAC in 2018 is £250 per Authorised Legal Activities Individual (ACCA member and non-ACCA member). In a limited company the shareholders must register as ALAIs even if they are not directors and not actively involved in the firm (e.g. spouses). Therefore, shareholders will count as authorised individuals for the purposes of calculating the fee for a FLAC.

Firms must ensure that they have professional indemnity insurance (PII) cover with minimum limits of indemnity of £100,000 in respect of each and every claim. ACCA's recommended broker for PII, Lockton, has stated that, as long as the relevant probate course and assessment has been completed, the scheme insurers are happy to cover this activity at standard premium rates. Should probate work start to form the majority of an accountant's income then they may have to review this, as a legal policy may be more suitable than an Accountants policy wording. Individuals who set up separate firms will need to contact their PII provider as some may require a separate legal policy.

Firms must ensure that they have continuity of practice arrangements with another firm that is authorised to undertake probate work under the Act. ACCA has established a member group where we will assist firms in finding a continuity of practice provider. Members can email [advisory@accaglobal.com](mailto:advisory@accaglobal.com) with the subject line 'continuity of practice'.

A FLAC will be issued to the firm once the application has been approved and accepted by ACCA. The FLAC can only be issued once all the partners, directors and shareholders have been authorised as ALAIs. Any new partners, directors or shareholders who join the firm will be required to submit an application form to register as a ALAI. The certificate will state those reserved legal activities that the firm is authorised to perform (currently, this is only probate activities).

### **WHAT PROBATE ACTIVITIES CAN INDIVIDUALS AND FIRMS UNDERTAKE?**

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On the FLAC application form firms are required to confirm the types of probate-related services they intend to undertake.

Guidance about the probate activities that ACCA-regulated firms can carry out are set out in a suite of Probate factsheets which can be requested by emailing [supportingpractitioners@accaglobal.com](mailto:supportingpractitioners@accaglobal.com).

### **BRANCHES OR OFFICES OUTSIDE ENGLAND AND WALES**

The Act regulates reserved legal activities in England and Wales. Firms with a branch or office outside England and Wales are eligible to undertake probate activities from the England and Wales branch or office.

### **COMPLAINTS HANDLING**

Firms authorised for probate will be required to establish and maintain internal processes for handling complaints about probate work in accordance with regulation 15 of the LARs. They must also cooperate with the Legal Ombudsman and comply with its decisions. To assist firms, ACCA will provide guidance on handling complaints relating to probate appropriately, including the implementation of internal complaints-handling procedures.

**DIVERSITY**

Firms authorised for probate will also be required to monitor and report on the diversity profile of their employees in accordance with LSB guidance. Firms will be required to supply diversity data to ACCA on a periodic basis to be agreed with the LSB. To assist firms, ACCA will provide guidance on the type of diversity data that should be collected, together with the arrangements for publishing summary data and reporting it to ACCA.

**RENEWAL OF FIRMS' LEGAL ACTIVITIES CERTIFICATES**

All firms' legal activities certificates are valid only until 31 December in the year of issue and are renewable annually.

**FURTHER INFORMATION**

For advice about eligibility to register as an ALAI or applying for a FLAC, please contact Authorisation on 0141 534 4175 (email [authorisation@accaglobal.com](mailto:authorisation@accaglobal.com)).

For advice on legislation or technical issues, please contact Technical Advisory on 020 7059 5920 (email [advisory.services@accaglobal.com](mailto:advisory.services@accaglobal.com)).