

Probate FAQs

ACCA has been approved to authorise individuals and firms to carry out probate work. Accordingly, The Legal Activities Regulations 2018 are in the 2018 ACCA Rulebook and form part of the UK annex to the Chartered Certified Accountants' Global Practising Regulations 2003 (GPRs).

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

<http://www.accaglobal.com/rulebook>

What work can I undertake?

The Legal Activities Regulations apply to the provision of non-contentious probate business in England and Wales. The Rulebook states that *contentious probate business* means probate business done in, or for the purposes of, proceedings begun before a court or before an arbitrator appointed under the Arbitration Act 1950.

How do I obtain authorisation to undertake probate work?

A member holding a PC and having completed a relevant course and assessment in probate will be eligible to apply to register as an Authorised Legal Activities Individual.

Members are not eligible to undertake probate work through ACCA unless the firm(s) in which they practise hold a Firm's Legal Activities Certificate (FLAC) from ACCA.

Members must complete an application form to register as an Authorised Legal Activities Individual.

A non-ACCA member is eligible if they:

- 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 Firm's Legal Activities Certificate from ACCA, and
- complete an application form to register as an Authorised Legal Activities Individual.

What forms do I need to complete?

The application forms are available at

<https://www.accaglobal.com/uk/en/member/sectors/smp/practising-certificates-and-licences/practitioner-forms.html>

How much will the fee cost?

There is no fee to register as an Authorised Legal Activities Individual but the fee for a Firm's Legal Activities Certificate in 2020 is £262 per Authorised Legal Activities Individual (ACCA member and non-ACCA member).

Where can I find a continuity of practice firm?

ACCA has established a member group where we will assist firms in finding a continuity of practice provider. Members can email advisory@accaglobal.com with the subject line 'continuity of practice'.

What educational and support materials are available?

ACCA has made available updated versions of the Probate factsheets. The suite of factsheets starts with 'what to do when someone dies', with others in the suite looking at administration of estates, taxation, calculations, forms required and distributions to beneficiaries.

The Probate Factsheets are available by request and will be free to practitioners who email supportingpractitioners@accaglobal.com. Please include your membership number, firm and 'probate factsheets' in the subject line.

We have the following additional guidance that will be made available to members.

Trusts Legal Framework Factsheets

- What is a trust - definitions and examples
- Different types of trusts - explanations and illustrations
- Duties of Trustees - powers, duties and obligations
- Taxation of Trusts - To include IHT

These will be highlighted to members over the next few months.

What Internal complaints-handling procedures do I need to establish?

Firms must implement fair, efficient and effective internal complaints-handling procedures for legal activities complaints which comply with the Legal Activities Regulations and the Legal Ombudsman Scheme Rules.

The **Internal complaints-handling procedures – legal activities factsheet** assists members and firms to handle complaints relating to legal activities appropriately. The factsheet provides guidance on the implementation of internal complaints-handling procedures and includes an example of a complaint notification form.

What PI cover will I require?

Firms must ensure that they have professional indemnity insurance cover with minimum limits of indemnity of £100,000 in respect of each and every claim.

ACCA's recommended PI provider 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.

Those individuals who have set up separate firms will need to contact their PI provider as some may require a separate legal policy.

What course and assessment will I need to pass?

ACCA will accept those who have completed the ACCA probate course or other similar probate courses, including the SWAT Certificate in Probate and Estate Administration.

The ACCA probate course and assessment is offered by Kaplan Altior and details are available at <https://altior.co.uk/public-training-programmes/course-directory/acca>

What business structure should I consider?

ACCA is not a licensing authority and can only authorise firms where **all** the partners, directors and shareholders are authorised for probate activities. The structure of the firm is more restrictive on firms who have partners, directors and shareholders who are **not** authorised for probate. These firms will need to consider how control is maintained by authorised legal activities individuals. For most firms this will involve establishing a separate legal entity.

Firms whose partners, directors and shareholders are authorised for probate activities can consider incorporating the activity within the current firm.