

Privacy Notice: Section 4 of the Registered Land Law authorises the Registrar of Lands to collect the information required by this form for the establishment and maintenance of the Land Register. Section 35 requires that the Register is made available to any person for search and inspection upon payment of a fee. It may also be used for authorised purposes in accordance with legislation and policy requirements. For more information, please see the Department's website.

CAYMAN ISLANDS
The Registered Land Law (2018 Revision)
The Registered Land Rules (2018 Revision)

THIRD SCHEDULE

**APPLICATION TO BE REGISTERED AS PROPRIETOR
BY TRANSMISSION**

REGISTRATION SECTION

BLOCK

PARCEL

I/WE

of

as personal representative (s) of (deceased)

HEREBY APPLY to be registered by transmission as proprietor(s) in place of the deceased of his/her interest in the land comprised in the above mentioned title, and in support thereof attach the Grant as required by Section 116 of the Registered Land Law (2004 Revision).

Date this day of 20

Signed by the Representative

in the presence of:-

CERTIFICATE OF IDENTIFICATION

Name.....

I HEREBY CERTIFY that the above namedappeared before me on the.....day of.....20.....and being identified by*(or being known to me) acknowledged the above signature or mark to be his/theirs and that he/they had freely and voluntarily executed this instrument and understood its contents.

.....
Signature and designation of the person certifying

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*NOTE: Please ensure that the appropriate insertions and/or deletions are made so that the method of identification is clear.

The information provided in this guide is not intended to amount to legal advice. Professional assistance may be required to determine the most appropriate action. Lands Registry accepts no responsibility where parties print this guide and seek to rely on information that is out of date.

BACKGROUND

Transmission in this instance applies to change of ownership consequent on death of a registered owner.

When the owner of land dies, the land vests in the personal representative of the deceased owner. A transmission application is required from the Executor or Administrator of a deceased registered proprietor in order that such Executor or Administrator may be entered on the Register as the proprietor of the estate or interest of the deceased proprietor.

The effect of the application is to place the Executor or Administrator on the Register as if he or she was a transferee and the absolute proprietor of the estate or interest being dealt with.

The personal representative must make application to be registered as owner before he may deal with the land. The executor or administrator holds the land subject to the same equities upon which the deceased held the land.

REGISTRATION PROCEDURE – LAND OR LEASE

An executor is appointed by the court pursuant to the terms of the will of the deceased and in the event of the executor's death, his executor has authority to continue with the business of the estate. If the executor dies intestate (i.e., no valid will), the court must appoint an administrator de bonis non (TRANSLATION: of goods not administered) to complete the administration of the estate left without a legal representative. An administrator is appointed by the court either where the deceased dies intestate or where an executor is appointed and is unwilling or unable to act. As the deceased does not choose the administrator, the administrator's executor does not take over his responsibilities as administrator but rather, an administrator de bonis non must be appointed by the court.

Where the name of an Executor or Administrator shown in a Grant of Probate or Letters of Administration differs to that shown in a transmission application, proof will be required as to the correct name and the reason for the error in the grant before an application for transmission can be entered.

In many other land registration systems, dealings by a personal representative must be checked to ensure that they are authorized by the will of the deceased or the court

appointment of the personal representative. In the Cayman Islands, however, the personal representative is deemed to be the absolute and beneficial owner for the purpose of registered dealings with the land, and as such we will not check that it authoursied and we assume that the personal representative is acting within their powers [section 39 (2)].

Notwithstanding section 121, which prohibits the the entry of particulars of any trust in the register, a personal representative is described as such on the title so that proper evidence in the estate will be obtained when the personal representative deals with the land [section 116 (1)].

WHO MAY APPLY

The following persons can apply to be registered as proprietor by transmission:

- the executor or executors named in a Grant of Probate
- the administrator or administrators named in a Grant of Letters of Administration
- the survivor or survivors of those set out in the preceding two points
- the executor or executors of a deceased sole or surviving executor and
- the administrator named in a Grant of Letters of Administration with the will annexed.

All the persons (executors or administrators) entitled to apply must join in the application and sign the form

WHO MAY NOT APPLY

The following persons cannot apply to be registered as proprietor by transmission:

- the administrator of a deceased executor
- the administrator or executor of a deceased administrator with the will annexed
- the administrator or executor of a deceased administrator
- the administrator or executor of a deceased proprietor holding the land as Trustee.

A new application at the Court can be made for a Grant of Letters of Administration for the original estate.

An original or a certified copy of the grant of probate or letters of administration under seal of the Grand Court must be submitted to the Land Registry and can be submitted with an application. If it is issued from a court of a jurisdiction other than the Cayman Islands, it must be re-sealed by the Grand Court.

If an original grant is submitted, it should be photocopied and the photocopy certified by an officer as a true copy of the original. The original should then be returned to the registrant. The grant of representation will be given a unique number which can be quoted with any subsequent dealing by the executor/administrator.

Name of Deceased Owner

The **name of the deceased** in the grant of probate or letters of administration must be consistent with the registered owner. If there is any discrepancy, confirmation of identity must be obtained. A statutory declaration, identifying the deceased if the name as shown on the office copy of the Grant of Probate or Letters of Administration differ in any way from those shown in the Register, (but if the Grant of Probate correctly identifies the proprietor as the deceased or the details on the title and the Will agree, no further proof is required). This statutory declaration is made by the executor or administrator. Where two or more executors or administrators are appointed, only one of them needs to make the declaration.

Statutory Declaration

Where an Application is to be accompanied by a statutory declaration the declaration should cover the following minimum point:

- Identify who is making the Application and in what capacity.
- Identify who the registered proprietor is/was.
- Identify the land the subject to the Application by legal land description (Lot on Plan and Volume/Folio)
- Reference to the date of death and date of issue of Grant of Probate / Letter of Administration.
- The (name of deceased) as shown on the register is one and the same person as (name) as shown on the Grant of Probate / Letters of Administration

The transmission application is to be completed by the personal representative and a mailing address for the personal representative is required and is endorsed on the register.

If Y, the executor of the will of X, dies, his executor Z may apply for a transmission and the register will read as follows: "Z executor of the will of X".

Where Z is appointed by the court as an administrator of unadministered property (de bonis non) for the estate of X, no reference is made on the register to the intervening personal representative.

Where the deceased died leaving multiple parcels a separate application is required for each parcel affected.

TRANSMISSION OF CHARGES

Where the sole holder of a Charge or Lease dies or where interest holders have specified the interest is held in shares (like tenants in common), or unspecified if more than one individual owner, a Form 22 Application To be Registered as Properietor By Tranmission should be used.

The effect of the application is to place the Executor or Administrator of the deceased encumbrance holder as the absolute proprietor of the interest being dealt with. The debt or interest can then be discharged or surrendered by the Executor or Administrator.

The evidence requirements are the same as transmission application, being a statutory declaration and the office copy or the original Grant of Probate or Letters of Administration, see above.

Although the provisions of section 115 refer to an estate or interest in land or lease for which a register has been opened, it is established practice to apply the provisions to a caution in order that the personal representative may deal with the interest claimed by the deceased.

If the personal representative submits a grant of probate or letters of administration with a transfer to beneficiary or discharge of an instrument or caution, a formal application to transmit may not be required.

REPLACEMENT OF PERSONAL REPRESENTATIVE

The Grand Court may order that the administrator or trustee of a deceased's estate be discharged from his duties and replaced by a new personal representative.

An application for transmission completed by the new personal representative and a certified copy of the order may be accepted for registration.

If there is more than one personal representative of the estate, the rule of survivorship applies. When accompanied by proof of death of the deceased personal representative, a deletion on death application may be accepted for registration.

However, if a register has opened issued in the name of more than one personal representative and one of the personal representatives dies, a new personal representative may be appointed to replace the deceased personal representative.

Applicants should check the register for any encumbrances that may delay or prevent registration of a dealing by the personal representative, such as mortgages, caveats and memorials.

Simultaneous Death of Joint Tenants

Where persons hold land as joint tenants and both die at the same time or where it is not possible to determine which of the deceased died first, the Succession Act (section 36) provides that it is presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder. Accordingly, the Land Registry would accept for registration a Deletion on Death Form for the older joint tenant and an Application for Transmission by the personal representatives for the younger joint tenant.

The supporting statutory declaration should include (in addition to standard clauses) a statement or statements that the deceased persons died at the same time or in circumstances that give rise to doubts as to which of them survived each other.

Note: This type of application may not be suitable where the land is a trust property as the land may not form part of the estate of the deceased proprietor and cannot be dealt with by the executor or administrator.

Fees – CI\$50.00