

CRUICKSHANK PRYDE

Incorporating Stammers-Smith Law

Barristers and Solicitors

18 June, 2012

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Trust Account

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Dear Chris

re: **Your Mother's Estate**

An Estate is administered by its Executors so that its assets can be brought in and transferred in to the names of the Trustees in the Will. The assets of an Estate may be regarded as unclaimed and may be subject to forfeiture to the Crown if they remain unclaimed for over seven years.

The current objective of administering your Mother's Estate is therefore to transfer her Estate from her name in to the names of the Trustees within a reasonable time.

The assets in the Trustees names will not be distributed until the Trustees and the Beneficiaries of the Estate agree as to how it is to be done in accordance with the terms of the Will.

Section 19 of the Administration Act 1969 makes provision for the appointment of Executors where one of the named Executors refuses or neglects to apply for Probate.

We repeat the above observation that the assets will not be distributed until you as a Beneficiary and all the Family have fully consented to and formally agreed as to how the distribution should be made.

The writer has spoken with Marc in regard to the necessity of progressing to Probate in order to avoid the possibility of the assets being regarded as unclaimed. The writer has suggested that a meeting between you and Marc could possibly help to complete this administrative hurdle. The writer could also be there and you might like to bring someone who could provide you with further advice.

We ask you to consider the proposal of a meeting and let us have your thoughts.

Yours faithfully
CRUICKSHANK PRYDE



Simon Stammers-Smith
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New Zealand Legislation

Administration Act 1969

19 Proceedings where executor neglects to prove will

- (1) In any case where any executor named in a will neglects or refuses to prove the will, or to renounce probate thereof, within 3 months from the death of the testator, the court may, upon the application of any other executor or executors or of any person interested in the estate or of Public Trust or of the Māori Trustee or of any creditor of the testator, grant an order nisi calling upon the executor who so neglects or refuses to show cause why probate of the will should not be granted to that executor alone or with any other executor or executors or, in the alternative, why administration should not be granted to the applicant or some other person.
- (2) Upon proof (whether by affidavit or otherwise) of service of the order, or upon the court dispensing with service of the order, if the executor who is so called upon does not appear or upon cause being shown, the court may make such order for the administration of the estate, and as to costs, as appears just.
- (3) Where Public Trust or the Māori Trustee applies, and any executor is out of New Zealand, the court may exercise the power given by this section and grant administration to Public Trust or the Māori Trustee without first granting an order nisi calling upon any executor who is out of New Zealand to show cause.
- (4) On the application of any executor who was out of New Zealand when the grant under subsection (3) without an order nisi was made, and who has not refused or renounced administration, the court may grant probate to that executor, or if Public Trust is one of the executors named in the will to Public Trust and that executor, in any manner and subject to any limitations or conditions that the court thinks proper.
- (5) No application under subsection (4) shall be made until 14 days after notice in writing of the intention to apply has been left at the Office at Wellington of Public Trust or of the Māori Trustee, whichever received the prior grant.

Compare: 1952 No 56 s 9

Section 19(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 19(1): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 19(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 19(3): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 19(4): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 19(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 19(5): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).