



IN THE SUPREME COURT OF BERMUDA

CIRCULAR

ISSUED BY THE REGISTRAR

Ref. A/50

Friday, 11th May 2018

CIRCULAR No. #13 of 2018

PROBATE DIVISION

The purpose of this Circular is to provide practitioners dealing with all probate applications with an update in relation to the current status of applications.

1. Throughout 2016 and 2017, the Probate Division of the Judicial Department (“the Department”) experienced a backlog of applications as a result of staff shortages as well as due to the relocation of the Registry in the Fall of 2016. The Practice Direction encompassed in Circular No. #7 of 2017 was issued to address the backlog concerns raised in the first two quarters of 2017.
2. When the Department has a full complement of staff applications should be reviewed within a four to six week timeframe. The recent staffing catastrophe has brought about a delay of up to six months or more. Whilst a great deal of the applications dating back to 2016 were processed in 2017, the backlog of applications has recurred and continues to increase at an unsustainable rate. These circumstances are a direct result of staffing shortages in the Department.
3. The Registrar and Assistant Registrar (Relief) acknowledge these circumstances are unacceptable as it has negatively impacted the Department’s ability to provide an expedient and efficient service to the public. Staff members of the Judicial Department have been working tirelessly during out of office hours to process applications. The majority of staff members have effectively been taking on two or three roles in order for access to justice to continue.
4. The unfortunate position is that the Department’s staffing shortage has gravely affected all areas of the Courts and particularly that of the Probate Division. We are still waiting to appoint a Probate Administrator as well as other administrative post-holders who will be cross-trained to assist with the Probate Division. Regretfully, the recruitment process has taken an inordinate amount of time and is yet to reach the end stages. To our dissatisfaction, this remains to be present situation.

5. All members of staff of the Department, inclusive of the Registrar and Assistant Registrar, have for years now been forced to work with inadequate resources due to posts not being filled throughout the Department. The Supreme Court Division of the Department has been running with a staffing complement of just 52%. The only reprieve has been the ability to engage temporary relief employees. Nonetheless, this has only provided a short-term, paltry solution as these temporary relief staff only provide for 5 of the 14 vacant posts. Moreover, the requirement to use temporary relief employees does not assist in creating a stable foundation the Department desperately requires. These circumstances continue to impede the Department's ability to adequately and efficiently service the members of public. The current status of the Probate Division alone is an unfortunate illustration of this position.
6. The Department's staffing crisis was reported fully in this year's Budget Brief given by the Attorney General on Friday, 23 March 2018. This was reported in the Royal Gazette given the seriousness of the concerns raised (see the following link for ease of reference: <http://www.royalgazette.com/court/article/20180326/attorney-general-calls-staff-shortages-untenable>).
7. Attempts to resolve staffing shortages throughout the Department have been prioritized by the Registrar and the Assistant Registrar (Relief) during the many preceding months. Disappointingly, this position has not changed since the Budget Brief was given despite these efforts to rectify the concerns of delay raised by Counsel as well as members of the public.
8. Consequently, at this time a timeline for the processing of applications submitted to the Probate Division cannot be provided. The Registrar and Assistant Registrar (Relief) along with Senior Managers are doing their utmost to resolve the staffing issues which continue to negatively impact the Department's ability to provide an expedient and efficient service. Practitioners' patience and understanding through this staffing crisis is greatly appreciated.
9. Should there be applications which are of an urgent nature, kindly bring these applications to the attention of the Assistant Registrar (Relief) setting out the reasoning for its urgent nature and the Department will do its utmost to prioritize these applications within a fourteen day period. It will, however, be at the discretion of the Assistant Registrar (Relief) to prioritize matters based on the nature of reasons provided for the application's urgency. Merely, stating the application is urgent based on a client's/applicant's desire for it to be resolved as soon as possible is not an adequate reason which will make an application be prioritized.
10. Whilst this position may not be amenable or satisfactory to practitioners and/or applicants, at this time and without the direct intervention of Head of the Civil Service, the Registrar is unable to provide an alternative resolution.

11. For the avoidance of doubt, all probate application inquiries should continue to be directed to the Assistant Registrar (Relief) with follow up enquiries either sent by hand to the Registry located at the Dame Lois Brown Evans Building or sent by email correspondence to supremecourt@gov.bm copied to the Assistant Registrar (Relief) at anwheatley@gov.bm.

Dated this 11th day of May 2018.

A handwritten signature in blue ink, consisting of several overlapping loops and curves, positioned above the printed name of the Registrar.

REGISTRAR
Shade Subair Williams