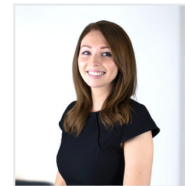




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The Rise and Fall of the Reseal in England & Wales



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What is a reseal?

In many countries around the world, when a person passes away, the local court will issue authority to an executor to administer an estate, where there is a Will. Where there is an intestacy (no Will), authority may be granted to an administrator.

Depending on the legal jurisdiction, the authority that is issued to an executor or an administrator may be referred to as a grant of representation, grant of probate or letters of administration. Many countries may use a different title for a similar court authority. For example, in Scotland, this court authority may be referred to as “confirmation”. In South Africa, the Master of the High Court issues “letters of executorship”. Throughout this article, we will refer to those court documents that authorise someone to administer an estate as, “grants”.

A reseal refers to the process where a grant has been issued in one jurisdiction and subsequently been through a legal process to become formally recognised in another jurisdiction.

Why are reseals required in the UK?

While many current and former Commonwealth countries and territories have similar common law legal systems, if a person passes away domiciled in one of these places leaving assets registered in the UK, often the grant issued by the local court or probate registry will not be recognised by the asset holder in the UK.

Instead, the asset holder in the UK may require the foreign grant to be formally recognised in the UK before they will allow the asset to be administered. This can be achieved by having the grant resealed in the UK.

Whether an asset holder requires a reseal is at their discretion and many will take into consideration the date of death balance or value of the asset when determining their documentary requirements.

The background to resealing

Legislation first introduced in the late 1800s paved the way for the English probate registry to reseal certain foreign grants. The foreign grants included those issued by the courts of specified current and former Commonwealth countries and territories, including South Africa, New Zealand, Australia and Canada.

One of the historical advantages to resealing was that the application was simpler than applying for a full English grant, and there was no requirement for an oath or a statement of truth. Historically, resealing was a fast and efficient way to obtain recognition of a foreign grant by the English probate registry.

The current position

The grant application process at the English probate registry has recently been overhauled. Widespread changes have been implemented, including the introduction of the online portal and new forms for postal applications. An application for a reseal can currently be made by post.

Unfortunately, as a result of the changes, the historical advantage whereby an oath or statement of truth were not required has fallen away. The application that is now required to apply for a reseal is largely the same as the application required for a full English grant. We are also finding that the English probate registry is taking even longer to process reseal applications compared to full grant applications, and some reseal applications are not being dealt with correctly.

In addition, we have encountered difficulties when presenting reseals to asset holders in England – even in cases where an asset holder has specifically requested a reseal. We are finding that certain asset holders are not familiar with resealed foreign grants and that presenting a reseal can cause requisitions and delays compared with presenting a full English grant.

For the above reasons, our view is that there is currently no practical advantage to obtaining a reseal. Instead, we are assisting our clients with extracting full English grants of representation, which are acceptable to asset holders in place of resealed foreign probate documents.

The future for reseals in the UK

Our recent experience is that many asset holders in England continue to request reseals. Accordingly, we are regularly contacted by clients for assistance with resealing foreign grants. We therefore do not expect the reseal to disappear any time soon, and we will continue to offer a resealing service for any client who is determined to obtain a reseal.

However, as things stand, we will continue to advise our clients of the benefits of extracting a full English grant of representation in place of a reseal. Amidst the continuing change at the English probate registry, the future for the reseal is not clear. We will remain hopeful that the reseal will one day be restored as a valuable tool in cross-border estate work.

How can Lester Aldridge's International Private Client team help you?

If you are administering an estate where you have obtained a foreign grant, court order or notarial declaration, and an asset holder in England has requested a reseal, we would be pleased to outline your options and how we can assist you.

Our team specialises in cross-border estate work and we offer both grant-only and full estate administration services.

Please do not hesitate to contact our [international probate solicitors](#) on 0344 967 0793 or online.enquiries@la-law.com.