

# S27 Guide



## A Practical Guide to placing a Section 27 notice

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As an Executor of a Will, one of your responsibilities is to deal with any claims against the Deceased's estate.

After you have received Grant of Representation (Grant of Probate), it is recommended that you put a statutory advertisement (under the Trustee Act 1925 for England, or the Trustee Act 1958 in Northern Ireland) in The Gazette and a local newspaper.

Placing a Section 27 notice ensures that sufficient effort has been made to locate creditors before distributing the estate to Beneficiaries, which protects the Executor or Trustee from being liable for any unidentified creditors.

Should a notice not be placed, and a creditor subsequently comes forward after the estate has been distributed, then you may have some personal liability for an unidentified debt. If the estate includes a property, a notice should also be put in a newspaper that is local to the property.

## THE GAZETTE AND THE NATIONAL WILL REGISTER

The Gazette, the official public record, and The National Will Register, work together to offer a comprehensive belt and braces approach to risk management when distributing an estate when someone dies.

Section 27 of the Trustee Act 1925 enables Trustees or Personal Representatives to protect themselves from liability against any claims from creditors and/or Beneficiaries that they have not had any notice of at the time that they convey or distribute the property in question, provided that the notice placed complies with the requirements of that section.

This includes, among other things:

- advertising the intention to convey or distribute the property through a notice placed in The Gazette and a local newspaper (where the property is land)
- setting out a period of at least 2 months for any interested person to send the particulars of their claim to the trustee or personal representative

Though it is not a legal requirement, any Trustee or Personal Representative placing a notice in accordance with Section 27 will not be liable to any such Creditors or Beneficiaries.

A Certainty Will Search is a precursor to the Section 27 notice, in that it seeks to ensure that the correct Will is being administered, or to establish that there is most likely not a Will in an assumed intestacy situation. This is done by searching for Wills that have been registered, and for Wills that have not been registered.

The rationale behind the Gazette and The National Will Register working together is that Certainty Will Searches and Section 27 notices complement each other, but do not substitute each other.

*Thomas Dumont QC at Radcliffe Chambers, explains: "Section 27(2)(b) says that nothing in section 27 frees the PRs [Personal Representatives] from any obligation to make searches similar to those which an intending purchaser would be advised to make. Clearly, a Certainty Will Search should be done right at the beginning of the estate administration process, so as to verify you are proceeding with the correct Will; or alternatively, that there is a Will. Time and expense will inevitably be saved in this way... a Section 27 notice does not remove the requirement to do a Will search, the two procedures serve different purposes, but work effectively and comprehensively to guard against risk. They represent a best practice approach to managing risk."*

You can place a Section 27 notice through **The Gazette website** or by conducting a Certainty Will Search Protect on **The National Will Register's website**.

The information contained in this guide is meant for information purposes only and you should seek your own legal or professional advice where applicable.

This guide includes information that has been previously published on **The Gazette website**.



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