Applying for Probate When the Original Will is Lost

Grant of Probate · https://help.law.com.sg/faq/applying-for-probate-when-the-original-will-is-lost/

My family member made a will, but the original is missing. Can we still use a copy to apply for probate?

A: Yes. Under Section 9 of the Probate and Administration Act 1934 (Singapore), if the original will is lost and cannot be found, you may still apply for probate using a copy of the will. However, you must convince the Family Justice Courts that the copy accurately represents the original will and that the original was not intentionally destroyed by the deceased.

What steps do I need to take if I only have a copy of a lost will?

A: You will need to:

1. File an Originating Application (Form 162) electronically through the Family Justice Courts' eLitigation system, as required under the Family Justice (Probate and Other Matters) Rules 2024.
2. Submit a sworn affidavit explaining how the original will was lost and detailing efforts taken to locate it (Paragraph 210, Family Justice Courts Practice Directions 2024).
3. Provide evidence to rebut the presumption that the deceased intentionally revoked (cancelled) the will.
4. Attach a certified true copy of the lost will, a certified copy of the death certificate, and a detailed list of the deceased's assets (Schedule of Assets) pursuant to Paragraph 212, Family Justice Courts Practice Directions 2024.

The Court may also require you to notify any parties who would be adversely affected if the copy will is admitted (Paragraph 210(3)(b), Family Justice Courts Practice Directions 2024).

Do I need consent from beneficiaries or family members who might lose out under the copy will?

A: It's not mandatory under current rules to obtain consent from these individuals upfront. However, under Paragraph 210(3)(b) of the Family Justice Courts Practice Directions 2024, the Court may require that notice of your application be given to these parties. Getting their consent or confirmation of no objection upfront is recommended, as it helps the Court process your application more smoothly.

If beneficiaries are minors, mentally incapacitated, or uncontactable, clearly explain this in your affidavit and seek directions from the Court.

What if someone objects to admitting the copy will?

A: If objections are raised after receiving notice, the probate application may become contested. In such cases, the Court will hold a hearing to resolve the dispute.

How long will the probate process take if I only have a copy of the will?

A: Generally, admitting a copy of a lost will can take longer than a standard probate case due to additional checks and the possibility of objections. Clear supporting evidence and consent from affected parties will help speed up the process.

Disclaimer

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Probate applications, particularly involving lost original wills, can be complex and dependent upon specific circumstances. We strongly recommend you consult a qualified practising lawyer in Singapore who can offer precise legal advice tailored to your individual situation.