

CHAPTER 13 – ULTIMUS HAERES

13.01 ESTATES WHICH FALL TO THE CROWN AS ULTIMUS HAERES

Where a person who is domiciled in Scotland dies without leaving a Will (“dies intestate”) and has no known relatives who would be entitled by law to succeed to his/her property, then that property (“his/her estate”), both heritable and moveable, falls to the Crown as *ultimus haeres* (meaning Ultimate Heir). In Scotland, the Queen’s and Lord Treasurer’s Remembrancer (QLTR) acts on behalf of the Crown in gathering in, administering and disposing of the items of the estate. After payment of all debts, the net proceeds are advertised as having fallen to the Crown, and if no claims from relatives are subsequently made, those proceeds are paid into the Scottish Consolidated Fund for the use of the Scottish Executive. *Ex gratia* payments to non-relatives can occasionally be made - but have to be justified.

The Crown Agent is also, by virtue of his office, the Queen’s and Lord Treasurer’s Remembrancer.

It is the responsibility of The Procurator Fiscal, on behalf of the QLTR, to investigate all potential UH cases within their jurisdiction. If it is established that a case is a UH case and there is an estate to administer, then the Procurator Fiscal should report the case to the QLTR Unit, Crown Office. This reporting should be done by sending all relevant documents to the QLTR Unit along with a completed [F8 form](#). Where someone dies with liabilities (debts) greater than his/her assets (“is insolvent”), and with no known relatives, the QLTR Department has no estate to administer. Therefore there is no need for the Procurator Fiscal to report the case. The Procurator Fiscal should instead inform known Creditors that the deceased had insufficient or no funds. The Local Authority has a statutory duty to organise and pay for the funeral of a person who has no funds, if there are no traceable relatives or friends willing to pay for it.

Often possible UH deaths are reported directly to the QLTR Unit by outside agencies/members of the public instead of to the relevant District Procurator Fiscal. In these circumstances the QLTR Unit will decide if the information provided by the agency or member of the public is enough to determine that it is a UH death with an estate for the Unit to administer, or whether it should be passed to the Procurator Fiscal to investigate in more detail.

Procurators Fiscal may choose to make arrangements with another office – e.g. the relevant Local Authority Legal Department – as to which body should physically carry out the preliminary investigation – but responsibility will still lie with the Procurator Fiscal to ensure that all relevant information is passed to the QLTR Unit along with a completed [F8 form](#) where there is an estate to administer, no relatives have been found and there is no will.

13.02 REPORTING OF CASES

Cases may be reported by: -

- The Police
- The Hospital or Nursing Home where the person died

- The Local Social Work Department.
- The Local Authority Legal Department.
- Other – e.g. Insurance Company, Bank, Friend or Neighbour

13.03 INVOLVEMENT OF THE REPORTING BODY

Police

The police are generally involved where there is a death in a public place or where they discover the body after being alerted to an individual's disappearance. If a body is found, the police will carry out the necessary enquiries and if it becomes apparent that the deceased had no known relatives, they will search the home to collect any documents, papers or valuables and report the death to the Procurator Fiscal.

Hospital

Where a death occurs in hospital and the deceased had no known relative or next of kin, the hospital will report the matter.

Nursing Home

It is becoming increasingly common for individuals to die in nursing homes, having left no known relatives. Depending upon the funding arrangements for the deceased's accommodation, the Local Social Work Department may already be involved. It may then advise the QLTR Unit of the death as opposed to the Procurator Fiscal. If it is a case that would be handled by the QLTR Unit and there is enough information, the Unit will accept it without asking the Procurator Fiscal to carry out any investigation. If the Social Work Department has not been involved, the Procurator Fiscal may be asked by the QLTR Unit to investigate even if the death was not reported directly to him/her.

Social Work Department

As well as involvement with Nursing Home placements, the Social Work Department is directly involved with any death which occurs in hostel type accommodation provided by the Local Authority or is of someone who is under a Supervision Order or similar, regulated by court procedure. The Social Work Department will usually report such a death to the QLTR Unit but if investigation is required then this will be passed to the Procurator Fiscal to progress.

Local Authority Legal Department

This is the office which is usually responsible for arranging a funeral in terms of the National Assistance Act 1948 for someone for whom no other funeral arrangements can be made (e.g. where there are no relatives to organise the funeral or the deceased had insufficient funds to pay for a burial). This Department should also report, having organised this type of funeral, to the Procurator Fiscal.

Other

Insurance companies or banks may contact the QLTR Unit directly with a copy of a claim form, if, for example, a claim to uplift funds of a deceased person is presented by a non-blood relative. In those circumstances, the QLTR Unit will forward the claim and correspondence to the Procurator Fiscal for investigation.

13.04 WHAT HAPPENS IF RELATIVES ARE FOUND?

In any of the above cases, a Will or the names of relatives who could perhaps be traced may be found - in which case the estate of the deceased person may not fall to the Crown. In these circumstances, the Procurator Fiscal should transfer all papers to the traced relative. If a Will is found, the Procurator Fiscal should contact and transfer all the papers to the named executor. A record of what has been transferred should be retained.

Where known relatives of the deceased do not wish to be involved (usually because they do not want to meet funeral expenses or be liable for the deceased's debts) and the estate is solvent, the case should be reported to the QLTR Unit. In such a case, the Procurator Fiscal should obtain written renunciation by those relatives of any rights they may have in the deceased's estate. The assets of such an estate are treated as *bona vacantia* (meaning ownerless goods) rather than *ultimus haeres* receipts but also fall to the Crown and will be dealt with by the QLTR Unit.

13.05 THE INVESTIGATION

Where to start

The appropriate starting point will depend on the information which has already been provided to the Procurator Fiscal. However the Procurator Fiscal should investigate to the extent required to find the information needed to complete the [F8 form](#) for possible reporting of the case to the QLTR Unit.

13.06 PARTICULARS OF THE DECEASED AND FUNERAL DETAILS

The reporter of the death may provide much of this information. However, if not, it may be obtained by finding out the following:

- Who registered the death? This person will no doubt be the person with the most information about the deceased. (This can be found out by contacting the local Registrar's Office). The Social Work Department, Nursing Home, Hospital, Police or Friend/Neighbour may have registered the death. Where the death has been registered by the Police, the death should already have been the subject of a report to the Fiscal which will contain the relevant particulars.
- Who made the funeral arrangements?
- Where and when did the funeral take place?
- Who were the undertakers?
- Has the funeral account been paid?
- If yes, who paid the account and how much did it cost?

13.07 PROPERTY AND BELONGINGS

The following information should be ascertained:

- Does the deceased have a house?
- If **yes**, contact the local authority housing office or housing association to determine whether the house was rented or owned.
- Establish who has the keys and take possession of them.
- Undertake house search – see section ‘The house search’ below.
- If **no**, find out if the deceased had a home until recently and if so establish when the tenancy was terminated. (The deceased may have been living for some time in a hospital or care home).

13.08 THE HOUSE SEARCH

The police might have made a preliminary search of the house but a full search of the house should be undertaken by either the police or the Procurator Fiscal. Clearly the deceased’s home is the place where most useful information is likely to be found. The police usually retain the house keys.

Electricity/gas meter readings should be taken and the date of reading recorded.

Where a house search is undertaken, there are Health and Safety aspects to be taken into account. It is part of the management responsibility of the Procurator Fiscal to take appropriate action to ensure that staff involved in any search take necessary precautions. The departmental [Health and Safety policy](#) is available on the intranet. Area Health and Safety Officers are, however, available to discuss any particular matter of concern.

NB. The house search should always be carried out with not less than 2 persons at all times, as per the Health and Safety policy.

13.09 IF RENTED ACCOMMODATION

The following is a suggested check-list to guide Procurators Fiscal: -

1. Obtain keys to the property.
2. Advise housing association, local authority, or private landlord if known, of your intention to search.
3. Arrange for security officer to attend.
4. Have sufficient protection to carry out search (gloves, mask, overalls)
5. Search for the following items: -
 - Will
 - Bank Books
 - Building Society books
 - Bank or credit cards
 - Cheque Books
 - Share Certificates
 - Savings bonds
 - Cash
 - Jewellery

- Benefit books
- Papers that indicate dealings with solicitor
- Address book or private correspondence
- 6. Identify whether the deceased owned: -
 - Antiques
 - Hi-fi equipment
 - Computer equipment
 - Car, motorbike, caravan etc
 - Any other valuable assets
- 7. Also search for: -
 - Phone bills
 - Council tax notices
 - Electricity bills
 - Gas bills
 - Credit accounts
 - Loan HP agreement (e.g. re car)
 - Any other financial documents
- 8. Check if any pets in the premises (and if there are, contact the SPCA)
- 9. Take meter readings for gas and electricity.
- 10. Secure door and return keys to person from whom they were borrowed.

13.10 IF OWNER-OCCUPIED PROPERTY

The same approach should be taken as for rented accommodation but searches should also be made for: -

1. Mortgage documents
2. Correspondence with solicitors (who may have acted in purchase of house and may hold Will for the deceased)

13.11 THE FUNERAL

The Local Authority has a statutory duty to organise and pay for the funeral of anyone who dies without the means to pay for one. The Local Authority will also organise the funeral of anyone for whom no one else is willing to undertake that role, but will reclaim the cost from any assets that the deceased left.

The Local Authority Legal Department will usually have a contract with local undertakers to provide this sort of statutory funeral. If friends of the deceased or the care home wish a private funeral to take place for someone whose estate has funds to pay for it, but who has no close relatives, the Procurator Fiscal can authorise this but should advise that costs should be kept to a reasonable level. It should be noted that the deceased might have made prior arrangements (e.g. purchase of burial lair, contribution to a Funeral plan.)

13.12 ASSETS/DEBTS

On the basis of the information/documents received either by the reporter or from the house search, the Procurator Fiscal should write to all debtors and creditors to establish what monies are due to the deceased's estate and what monies are owed. (NB. The Procurator Fiscal is not expected to ingather monies or pay any debts).

The Procurator Fiscal may receive money from the reporter or from the sale of furniture etc. This money should be deposited in the office Royline account and the information noted on the [F8 form](#).

From the above enquiries the Procurator Fiscal should be able to complete the assets/debts part of the F8 Form and establish whether or not the estate is solvent.

13.13 THE PROPERTY

Where the property is privately owned, the Procurator Fiscal should make arrangements with a removal firm to clear the house and dispose of the contents to best advantage. Where the property belongs to a Local Authority or Housing association, it may make arrangements for clearance of the property, having been notified of the death. The Procurator Fiscal should visit the house before this is done. Where there are items of potential value in the property, the Procurator Fiscal should arrange for removal and subsequent sale of these items. The QLTR Unit will accept only jewellery and photographs, as storage space is very limited. Domestic appliances, standard furniture etc can be sent to local charity shops, or uplifted for destruction or other disposal. Care should be taken however that the items are not the subject of any hire purchase agreements. Where the property is tenanted, the Local Fiscal should formally (i.e. in writing) terminate the tenancy agreement.

The Procurator Fiscal has discretion to hand over token keepsakes to friends or neighbours of the deceased. **Under no circumstances should any items be taken from the property by PF staff for their own personal use.**

13.14 IF THE ESTATE IS SOLVENT

Once all of the information has been obtained and the [F8 form](#) completed, the estate should be reported to the QLTR Unit and both the completed F8 Form and all supporting documents forwarded, but only if the estate is shown per the F8 form to be solvent (i.e. assets exceed liabilities).

13.15 IF THE ESTATE IS INSOLVENT

If the estate is insolvent, the Procurator Fiscal should notify the known creditors of this. (Any money held should be passed to the creditors to offset against any debt). Priority should be given to the payment of the funeral and therefore if the Local Authority paid for the funeral, the money should be forwarded to them to offset against the cost of the funeral.

13.16 FURTHER GUIDANCE

Any areas of doubt or difficulty should be referred to the QLTR Unit who will be happy to provide advice to Procurators Fiscal as required.