

FACT SHEET

REMEDIES AVAILABLE TO BENEFICIARIES.

Until the estate has been administered, the beneficiaries cannot claim any property in the estate.

Nevertheless, they can force the personal representatives to administer the estate properly.

The remedies available to the beneficiaries where difficulties arise during the administration are as follows:

1. Administration proceedings under Part 64 of the Civil Procedure Rules to ensure that the administration of the estate is conducted correctly;
2. An application for the substitution or removal of a personal representative under Part 57 of the Civil Procedure Rules;
3. A personal action against any person who has wrongfully received assets of the estate;
4. A tracing action against anyone who has property which formed part of the estate.
5. A personal action (“devastavit action”) against the personal representatives for any breach of duty in the performance of their office;
6. Application to the High Court under Section 50 Administration of Justice Act 1985 to appoint, substitute or remove a personal representative.

NOTE: Our fact sheets are intended as general guides only. Each case turns upon its facts and legal advice should be sought upon those specific facts.

If we can be of any further assistance, please do not hesitate to contact:

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