THE PARALEGAL DESK

Wills and trusts — execution, codicils, trusts, the trustee year and the enduring power of attorney

A printable reference pack for Hong Kong paralegals and legal executives.

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Wills and trusts

PRIVATE CLIENT · WILLS AND TRUSTS

The succession page deals with who takes the estate, and the probate page with the application for the grant. This page is the two documents that come before either of them: the will, and the trust deed. Both are signed once and read for decades, which is why the ceremony matters more than the drafting.

THE TWO DOCUMENTS THAT FAIL MOST OFTEN

A will signed by one witness, or by two witnesses who were not in the room at the same time. Nothing about the drafting can save it: section 5 of the Wills Ordinance is a door with four locks, and the court's power to admit a defective document is a rescue, not a plan.

A trust deed copied from a Cayman or BVI precedent and signed in Hong Kong. It will cite a perpetuity period that was abolished here in 2013, may leave the trustee without the statutory powers it needs, and will usually be governed by the wrong law. A Hong Kong trust is a Hong Kong deed.

1 Four tools, four different jobs

Clients ask for "a will" when what they want is a result: the flat to the daughter, the business to the son, the money out of reach of a failed marriage. Those are four different instruments, and choosing the wrong one is the mistake that costs the most.

What each instrument actually controls

Instrument	Controls	Takes effect	What it cannot do
Will	Everything the deceased owns alone at death — the sole-name flat, shares, bank accounts, the business interest	On death, through the grant of probate	It does not touch jointly owned property, a nominated insurance policy or MPF, or assets already in a trust
Lifetime trust	Assets transferred to trustees now, for beneficiaries named in the deed	Immediately, on settlement and funding	It does not remove the settlor's tax residence, and it cannot be used to defeat existing creditors
Joint tenancy	The whole asset, to the survivor	On death, by survivorship — outside the will and outside the grant	It gives no control over who takes if the survivor dies next, and it can be severed unilaterally
Nomination	An MPF balance or a policy with a named beneficiary	On death, directly from the scheme or insurer	It is not a will, it is not revocable by will, and it is forgotten after a divorce

A will that "leaves everything to my wife" does nothing for the flat held in joint names — survivorship already did it — and the residue the will actually disposes of is then smaller than the client expects. Establish the ownership of every substantial asset before a word of the will is drafted.

2 Writing the will: the instructions that decide the draft

Most will failures are instructions failures. The draft is only as good as the schedule behind it, and the schedule is the paralegal's work: every asset, how it is held, who it goes to, and what happens if that person dies first.

- **Identify the client and the capacity question**Full name as on the identity card, address, and whether there is any diagnosis, hospital stay or guardianship order that touches capacity. A client over 80, or one with a recent diagnosis, gets an attendance note in more detail, not less.
- **List every asset and how it is held**Sole name, joint tenants, tenants in common, company shares, MPF, insurance with a nomination, a business interest, a safe deposit box, overseas property. Each one needs its route, and only some of them go through the will.
- **List the family, including the ones who are not to benefit**Spouse, former spouse, children, step-children, dependants, and anyone maintained by the client. A will that leaves out a dependant is a Cap 481 claim waiting to happen.
- **Ask for the existing will and any codicil**A later will revokes an earlier one; a codicil may still be in force; a will made before a marriage may already be revoked. Never draft in ignorance of the last document signed.
- **Choose executors who will actually act**Not more than four may take a grant (Cap 10, s 25), each should be asked in advance, and a substitute should be named for each. A sole executor who is the same age as the client is a second grant waiting to happen.
- **Decide the gifts, then the residue**Specific gifts first, then the residue clause — which is what catches everything not named, including property bought after the will was signed.
- **Check the witnesses before the ceremony**No beneficiary, and no spouse of a beneficiary, may witness (Cap 30, s 10). A gift to a witness is void; the rest of the will usually stands.
- **Send the draft for written approval**One clear email: this is the draft, these are the choices you made, tell me if anything is wrong. The reply goes on the file — it is the evidence of knowledge and approval if the will is ever challenged.

What the file must hold before the signing appointment

Document	Why it is on the file
Instructions sheet, signed by the client	Shows what was asked for, and when
Asset schedule with ownership	Explains the residue clause and why joint property is not in it
Draft and the client's written approval	The evidence of knowledge and approval
Capacity note, if there is any doubt	Contemporaneous evidence is worth more than any later opinion
Identity card copy and address proof	Probate will require the deceased's identity, and the draft must match it
Prior will or codicil, or a note that there is none	Revocation is assumed until the earlier document is produced

3 Signing the will: the ceremony, step by step

Section 5 of the Wills Ordinance requires four things, and all four are mandatory: the will must be **in writing** and signed by the testator (or by someone else in his presence and at his direction); it must appear that he intended by that signature to give effect to the will; the signature must be **made or acknowledged in the presence of two or more witnesses present at the same time**; and each witness must **attest and sign** in the testator's presence — not necessarily in the presence of the other witness. No particular form of attestation is required, but every firm uses one.

- **Book the appointment properly** Thirty to forty-five minutes, in a room with no interruptions, with the will already printed and paginated. Nobody signs a will between two other meetings, and a ceremony conducted in a corridor is exactly the ceremony that gets challenged.
- **Have all three people in the room before anything is signed** The testator and both witnesses, present at the same time. This is the requirement that sequential witnessing destroys, and it is the one most often broken by a will signed at home over a weekend.
- **Confirm the document is the one approved** The testator reads it, or has it read to him, and confirms that it is the draft he approved. Note in the file whether it was read aloud, and by whom.
- **The testator signs at the foot or end, in ink** In the presence of both witnesses. A mark, a stamp or an electronic signature is not a signature for this purpose unless it falls within the definition in section 2 — take the original, wet-ink signature.
- **Each witness signs, in the testator's presence** Name, address and occupation against the signature. The witnesses do not need to see each other sign, but both must be present when the testator signs or acknowledges his signature.
- **Complete the attestation clause** Not required by statute, but it raises a presumption of due execution before the Probate Registry, which is precisely what you want when the witnesses cannot be found years later.
- **Date the will on the day of signing** Not earlier, not later. Two wills with the same date is an argument nobody wins.
- **Nothing is added afterwards** An alteration made after execution is invalid unless it is executed like a will (s 16). A correction after signing means a codicil, or a fresh will.
- **Complete the execution record** Who was present, where, when, what was read, what was asked and answered. It is one page and it is the single most useful document on the file.
- **Store the original and tell the client where it is** Hong Kong has no central wills registry, so the original lives with the firm, the executor or the client — and the file says which, and records every copy released.

NO CENTRAL REGISTER, SO CUSTODY IS THE WHOLE SYSTEM

The Government confirmed in the Legislative Council on 11 November 2026 that Hong Kong has **no official centralised will registration system**. Nothing is filed when a will is signed. That means the original is the will: a copy proves nothing for probate, a lost original invites a presumption that it was destroyed, and a firm's storage record is often the only evidence that it ever existed.

Practical rule: the original stays in the firm's deeds room or with the executor named in it, the client gets a copy and a letter saying where the original is, and the location is noted on the asset schedule so the family can find it without a search of every bank and solicitor in Hong Kong.

Will — the execution copy, clause by clause Specimen · example only	
Commencement	This is the last will of me, YEUNG Kwok Wai, Patrick, of Flat 21B, Tower 1, The Belcher's, 89 Pok Fu Lam Road, Hong Kong, made on 18 November 2026
1. Revocation	I revoke all former wills and codicils made by me
2. Definitions	In this will "my trustees" means my executors and trustees for the time being, and includes the survivor of them and the personal representatives of the last of them
3. Executors and trustees	I appoint my wife YEUNG Chan Siu Fung, Amy, and my daughter YEUNG Hoi Ying, Jessica, to be the executors and trustees of this will, and if either of them is unable or unwilling to act, my brother YEUNG Kwok Leung, Simon, in her place
4. Funeral and debts	I direct my trustees to pay my just debts, funeral and testamentary expenses out of my estate, and I express the wish, without imposing any trust, that my ashes be interred beside my parents
5. Specific gift — property	I give my one-half share as tenant in common in Flat 8, 25/F, Bel Air Heights, 88 Pok Fu Lam Road, Hong Kong to my said wife absolutely
6. Specific gift — chattels	I give my watch collection to my son YEUNG Hei Tung, Anson, absolutely, and if he does not survive me, to my daughter Jessica
7. Specific gift — charity	I give HK$200,000 to The Community Chest of Hong Kong, free of duty, and I direct that the receipt of its treasurer is a sufficient discharge
8. Residuary gift	I give the residue of my estate to my said wife if she survives me by 30 days, and if she does not, to my children in equal shares, the share of a child who does not survive me passing to that child's issue in equal shares per stirpes
9. Survivorship	A beneficiary who does not survive me by 30 days is treated as having predeceased me for all purposes of this will
10. Guardianship	If my wife does not survive me, I appoint my sister YEUNG Mei Ling, Karen, to be the guardian of my minor children, and I record that this appointment is made in the knowledge that she lives in Hong Kong and is willing to act
11. Trustee powers	My trustees may invest in any investment permitted by law as if they were absolutely entitled, retain property in the form in which it comes to them, sell, lease, borrow, insure, appropriate assets in or towards satisfaction of any gift, and employ agents, nominees and custodians — and a trustee acting in a professional capacity may charge for his services
Attestation clause	Signed by the testator, YEUNG Kwok Wai, Patrick, in our presence and by us in his presence, all three of us being present at the same time, on 18 November 2026 — followed by the signature, name, address and occupation of each witness

The 30-day survivorship clause prevents a second grant when spouses die close together · the residue clause is the safety net for lapsed and adeemed gifts · a gift to a witness or a witness's spouse is void (s 10) · the original, never a copy, is what probate needs

Execution record — the attendance note that answers the challenge	Specimen · example only
Matter	YEUNG Kwok Wai, Patrick — will · file WT-2026-0142
When and where	18 November 2026, 10.15 am to 10.55 am, meeting room 3, firm's office, 12th Floor, 88 Queensway, Hong Kong
Present throughout	YEUNG Kwok Wai, Patrick (testator); HO Sau Ching, Mandy, solicitor's clerk, of 88 Queensway, Hong Kong (witness 1); LAM Tsz Kit, Kelvin, trainee solicitor, of the same address (witness 2)
The document	Will of four pages, dated 18 November 2026, paginated 1 of 4 to 4 of 4, initialled by the testator on each page — the draft approved by the testator by email on 12 November 2026
What happened, in order	The testator confirmed the draft was the one he had approved. He read it through in our presence. He signed at the foot of page 4 in ink. Both witnesses then signed the attestation clause in his presence, and he acknowledged his signature to both of them.
Questions asked and answers given	Asked whether the will disposed of his estate as he wished: yes. Asked whether anyone had pressured him: no. Asked whether he understood that his wife takes the residue and the children share if she does not survive him: yes.
Capacity	Alert and oriented; gave a consistent account of his assets, his children's names and his late parents' names; read the will without glasses; no sign of confusion; no diagnosis on file
Language	Conducted in Cantonese; the will was read in English and explained in Cantonese by the clerk; the testator confirmed he understood both
Alterations	None. No page was re-signed, corrected or replaced at the appointment
Custody	Original retained in the firm's deeds room, envelope 2026/0142, with a copy of this record. Copy given to the testator. Location noted on the asset schedule for the family.
Next review	Diarised for November 2029, and on any marriage, dissolution, birth, death of an executor or beneficiary, or acquisition of a business interest

Written the same day, signed by the person who conducted the appointment · it is not a substitute for the attestation clause, it is what the clause cannot say · if the will is challenged years later, this page is the evidence of due execution and of knowledge and approval

4 Changing, revoking and reviving a will

Five things can unpick a signed will, and only two of them involve anybody signing anything. The table is the checklist for every review appointment.

How a will stops working — and what replaces it

Event	Effect	The provision	What to do
A later will or codicil	Revokes the earlier document to the extent of the inconsistency, or wholly if it says so	Cap 30, s 13	Always revoke expressly: "I revoke all former wills and codicils"
A written declaration of intention to revoke	Revokes, but only if executed like a will	Cap 30, s 13	Rare, and rarely advisable — make a new will instead
Burning, tearing or destroying the original	Revokes if done by the testator, or by someone in his presence and at his direction, with intent to revoke	Cap 30, s 13	A lost original is presumed destroyed: keep it in a deeds room, not a drawer
Marriage	Revokes the whole will — unless it was made in contemplation of that marriage, or the will says the disposition survives	Cap 30, s 14	Ask every engaged client directly, and note the answer on the file
Dissolution or annulment	The appointment of the former spouse as executor is treated as omitted, and gifts to the former spouse lapse — unless the will shows a contrary intention	Cap 30, s 15	Not a revocation: the rest of the will stands, which is why the former spouse can still be a trustee of a trust the will creates
An alteration after signing	Invalid unless executed like a will; an obliteration may revoke the words obliterated	Cap 30, s 16	Never correct a signed will by hand — codicil or re-execute
A revoked will brought back	Only by re-execution, or by a codicil executed properly and showing an intention to revive it	Cap 30, s 17	Re-execution is cleaner; revival arguments are expensive
A clerical error or a failure to carry out instructions	The court may rectify the will	Cap 30, s 23A	An application, not a correspondence point — and it needs the drafting file

Codicil — one change, executed like a will

Specimen · example only

When to use it	One or two changes to a will that is otherwise sound: a substitute guardian, an extra gift, a change of executor. For anything more, and for any change to the residue, make a new will — two codicils and a will is three documents to prove
Commencement	I, YEUNG Kwok Wai, Patrick, of Flat 21B, Tower 1, The Belcher's, 89 Pok Fu Lam Road, Hong Kong, declare this to be a first codicil to my will dated 18 November 2026
The change	In clause 10 of my will I appointed my sister YEUNG Mei Ling, Karen, as guardian of my minor children. I revoke that appointment and in her place I appoint my brother YEUNG Kwok Leung, Simon, to be the guardian of my minor children
Confirmation	In all other respects I confirm my will dated 18 November 2026
Execution	Signed by the testator in the presence of both witnesses present at the same time, and by each witness in his presence, on 4 March 2027 — the same ceremony, the same two witnesses rule, the same attestation clause as the will itself
Filing	The original codicil is stored with the original will, and the will's schedule is amended to record that a codicil exists. A codicil stored apart from its will is a codicil nobody finds
The trap	A second codicil that contradicts the first must revoke that clause expressly. Silence leaves two provisions standing, and the Probate Registry will not resolve the conflict for you
Fee	**No court fee** — nothing is filed. The cost is the drafting and the signing appointment

A codicil is not a shortcut on formalities: section 5 applies in full · no fee, no filing and no register · the codicil must refer to the will by its date, and the will must be the one actually signed on that date

5 Trusts: what they are, and what a Hong Kong deed must contain

A trust is not a company and not a separate legal person. It is an obligation: the settlor transfers assets to a trustee, who holds them for beneficiaries on the terms of the deed. The trustee owns the property at law; the beneficiaries own it in equity. Everything that follows — the powers, the duty of care, the accounts, the ending — comes from the deed and from the Trustee Ordinance.

The parties, and who does what

Party	Role	What the file needs
Settlor	Creates the trust and settles the assets. May reserve investment or veto powers, which Hong Kong law now expressly validates	Identity, capacity, source of wealth, and whether any reserved power is being kept
Trustee	Holds the assets, invests, accounts and distributes. An individual or a trust company; a company acting as trustee by way of business needs a TCSP licence under Cap 615	Acceptance in writing, due diligence, and the charging clause if professional
Beneficiaries	The objects of the trust — named individuals, a class (children, remoter issue) or charities	A definition wide enough for later children and narrow enough to be certain
Protector	Optional. Usually consents to a change of trustee or the addition of a beneficiary, which keeps some control outside the trustee	A named person and a successor, or the clause is a dead letter

Three points of Hong Kong law change what the deed should say, and all three date from the Trust Law (Amendment) Ordinance 2013, in force on **1 December 2013**. First, the **rule against perpetuities and the rule against excessive accumulations were abolished** for trusts created on or after that date, except for charitable trusts — so a modern Hong Kong deed does not need a perpetuity period, and a deed that still has one is showing its age. Second, a **statutory duty of care** applies to trustees exercising the functions listed in Schedule 3, unless the deed excludes it (s 3A). Third, an **exemption clause cannot excuse a professional trustee's own fraud, wilful misconduct or gross negligence** (s 41W).

NO REGISTER, NO FILING, NO ANNUAL RETURN

There is no register of trusts in Hong Kong and nothing is filed when one is created. The deed is a private document, the trustee is not a separate taxpayer, and the only filings that ever arise are the ordinary ones: stamping a transfer of shares or property into the trust, registering a memorial at the Land Registry, and the trustee's tax return if the trust carries on a trade or receives rent. A client who expects a certificate of registration has been reading about another jurisdiction.

Discretionary trust deed — the operative clauses Specimen · example only	
Parties	SUN Wei Ming, Eric, of 18/F, Block A, Dynasty Court, 17 Old Peak Road, Hong Kong (settlor) · Harbourview Trust Services Limited, a company incorporated in Hong Kong with TCSP licence TC000123 (trustee) · SUN Lau Pui Shan, Irene (protector)
Recitals	The settlor wishes to settle the sum and any further property on the trusts of this deed, which is governed by the law of the Hong Kong Special Administrative Region
1. Definitions	"Beneficiaries" means the settlor's wife SUN Lau Pui Shan, Irene, his children and remoter issue whenever born, and any charity nominated by the trustees · "Trust Fund" means the settled sum, all additions and all property from time to time representing them · "Protector" includes any successor appointed under clause 8
2. Settlement	The settlor pays HK$100 to the trustee, and may add further property by transfer or declaration, and the trustee holds the Trust Fund on the trusts below
3. Discretionary trusts	The trustee may pay or apply the whole or any part of the income and capital of the Trust Fund to or for the benefit of any one or more of the Beneficiaries, in such shares and at such times as the trustee thinks fit, and no Beneficiary has any right to any part of the Trust Fund unless and until a distribution is made
4. Default	On the last day of the Trust Period, the trustee holds the Trust Fund for the settlor's issue then living in equal shares per stirpes, and if none, for such charity as the trustee selects
5. Powers	To invest in any asset as if absolutely entitled; to retain; to borrow; to lend to a Beneficiary on commercial terms; to acquire property; to insure; and to appoint agents, nominees and custodians under Part 4A of the Trustee Ordinance
6. Trustees	At least two trustees or a trust corporation · appointment and removal under s 37 as varied by this deed, with the Protector's written consent · retirement under s 40 · a trustee acting in a professional capacity may charge its published rates
7. Duty of care and liability	The statutory duty of care in s 3A and Schedule 3 applies · the trustee is not relieved of liability for its own fraud, wilful misconduct or gross negligence, and no indemnity out of the Trust Fund is given for it (s 41W)
8. Protector	The Protector's written consent is needed to remove a trustee or to add a Beneficiary; the Protector may appoint a successor by deed; the office ends on death, incapacity or written resignation
9. Accounts and information	The trustee prepares accounts annually and sends them to the Protector; a Beneficiary has no right to accounts or to the deed, consistent with the discretionary nature of the trust
10. Governing law	Hong Kong law governs the trust and its administration · no perpetuity period is stated, the trust having been created after 1 December 2013
Execution	Executed as a deed by the settlor and by the trustee, each signature witnessed, with the company's common seal or a director and the company secretary signing under authority

No registration and no government fee · the deed is the whole constitution of the trust, so every power the trustee will ever need must be in it · a deed that still recites an 80-year perpetuity period was drafted for the pre-2013 law

6 Running the trust: the paperwork after the deed

A trust is administered by documents: a letter of wishes that guides the trustee without binding it, a deed when the trustee changes, and a resolution every time money moves. None of them is filed anywhere, which is exactly why they are the first things missing when a trustee is asked to account for twenty years of decisions.

Letter of wishes — guidance that does not bind	Specimen · example only
Status	Not a deed and not part of the trust. It does not vary the deed, create rights for any Beneficiary, or bind the trustee — and the trustee may depart from it. If a wish is meant to bind, it belongs in the deed
From and to	From SUN Wei Ming, Eric, settlor · to the trustee of the Sun Family Trust, dated 18 November 2026
Education	I would like my children's university and professional education to be funded before any other distribution, and I would prefer that the capital is not exhausted on it
The family home	I would like my wife to be able to remain in the family home for as long as she wishes, and the trustee should not sell it to fund a distribution to the children while she does
The business	My shares in Sunfield Engineering Limited are in the trust. I would like the trustee to retain them while my son works in the business, and to consider a transfer to him only when the Protector agrees
Timing	I would prefer that my children receive capital in stages — at 25, 30 and 35 — rather than in one payment, and that the trustee considers their other resources before each distribution
Confidentiality	I would prefer that the children are not told the size of the Trust Fund while they are minors
Review	This letter is reviewed each year with the trustee, and replaced rather than amended. The current version is the only one the trustee should act on
Signature	Signed and dated by the settlor; a copy sent to the trustee and to the Protector, and the original kept with the deed

A letter of wishes that is treated as binding is either a badly drafted deed or a trustee acting under dictation — neither survives scrutiny · keep the superseded versions, marked superseded, so the trustee can show which one it followed

Deed of retirement and appointment of trustees	Specimen · example only
Parties	Harbourview Trust Services Limited (retiring trustee) · SUN Wei Ming, Eric (continuing trustee) · Pinecrest Fiduciary Limited (incoming trustee) · SUN Lau Pui Shan, Irene (Protector, consenting)
Recitals	The Sun Family Trust was created by a deed dated 18 November 2026 · the retiring trustee wishes to retire and the continuing trustee wishes to appoint the incoming trustee in its place · the Protector consents in writing
Retirement	The retiring trustee retires with effect from 31 March 2027 under s 40 of the Trustee Ordinance, with the written consent of the continuing trustee, there remaining at least two trustees after the retirement
Appointment	The continuing trustee appoints Pinecrest Fiduciary Limited as a trustee in place of the retiring trustee under s 37, and the incoming trustee accepts office on the terms of the deed
Vesting	By this deed the Trust Fund vests in the continuing and incoming trustees as joint tenants without any further conveyance or assurance (s 41)
Indemnity	The retiring trustee is indemnified out of the Trust Fund for liabilities properly incurred, but not for any liability arising from its own fraud, wilful misconduct or gross negligence
Notices	The new trustees give notice to every bank, the company's share registrar, the insurer, the tenant and the Protector, with a certified copy of this deed and of the trust deed
Records handover	The retiring trustee delivers the deed, all deeds of appointment, the minutes, the accounts, the tax returns and the bank mandates — and the handover schedule is signed by both sides
Execution and fee	Executed as a deed by all parties · no stamp duty and no registration fee on a change of trustee; the only cost is the drafting and any registration of a share transfer if assets have to be re-registered

Check the deed's own removal power first: many require the Protector's consent, and some require two trustees to remain · the vesting under s 41 does not change the registered owner of shares or land, so the registrars still need the deed

Trustee resolution — a distribution, and the annual review Specimen · example only	
Meeting	Sun Family Trust — meeting of trustees, 14 May 2027, 3.00 pm, at the office of Pinecrest Fiduciary Limited
Present and quorum	SUN Wei Ming, Eric, and Pinecrest Fiduciary Limited by its director — two trustees, a quorum under clause 6 of the deed
Accounts	The accounts for the year ended 31 December 2026 are received and approved, showing a Trust Fund of HK$18,400,000 and income of HK$412,000
Resolution 1 — distribution	That HK$250,000 be distributed to SUN Hei Yu, Chloe, for her final year of study and living costs, and that the trustee record that her other resources are insufficient for the purpose
Resolution 2 — retention	That the holding of 600,000 shares in Sunfield Engineering Limited be retained, having regard to the settlor's letter of wishes and the Protector's view
Resolution 3 — review	That the investment policy be reviewed at the next meeting, and that the trustee obtain a valuation of the Tai Po property before then
Considerations recorded	The needs of the other Beneficiaries, the settlor's letter of wishes, the liquidity of the Trust Fund, and the duty to act impartially between Beneficiaries — recorded because a discretionary decision with no reasons on file is the decision that gets challenged
Payment	Paid by bank transfer on 18 May 2027 to the account in the Beneficiary's name, with the receipt on file
Signature	Signed by both trustees at the meeting or by written resolution signed by all; the minute is kept with the deed and the accounts — nothing is filed with any registry

No filing, no fee · in a discretionary trust the reasons for a distribution are the trustee's defence, so record them at the time · a written resolution signed by all trustees does the same work as a meeting, and is easier to arrange

7 The official forms — every one, and where it is filed

Wills and trusts generate fewer official forms than any other part of the desk, and that is the trap: there is no form for a will, none for a trust, and nothing is filed when either is signed. The forms that do exist are the ones that follow a death, or a dispute. This is the complete list, grouped by who issues it.

One thing to get right before using it: there is no separate form that just asks the court for a grant. The **application is the applicant's own affirmation** — W1.1a for an executor, the **L1 series** for an intestacy — filed together with the schedule of assets and liabilities verified on **N2.1**. Those documents are the application; nothing else on this page is a request for a grant, and no form is filed on the signing of a will or a trust deed.

Probate Registry — the non-contentious forms

Form	What it is	Filed when	Fee
W1.1a	Executor's affirmation or affidavit — identifies the deceased, the will and the applicant, and exhibits the will	With the application for a grant of probate	**HK$265** on filing, plus **HK$72** per page of the grant engrossed
N2.1	Schedule of assets and liabilities in Hong Kong as at the date of death, verified by the applicant	With W1.1a, as one application	**No separate fee** — filed with W1.1a as one application
W1.4a	Administration with will annexed, where the will appoints no executor, or none can act	Instead of W1.1a	HK$265 + HK$72
W1.2, W1.2a, W1.2b	Power of attorney for an executor abroad, and the attorney's own application and affirmation	When the executor cannot come to Hong Kong	HK$265 + HK$72
W1.3a, W1.3b	Application and affirmation where the sole executor has died without proving, or has renounced	With the chain of entitlement exhibited	HK$265 + HK$72
L2.1	Renunciation of administration by the person entitled in priority	Before a lower-ranked applicant applies	No fee
C2.1	Citation to accept or refuse administration	When an entitled person will neither apply nor renounce	**HK$72** per citation
L1.1a – L1.6a	The administrator's affirmation on an intestacy, chosen by the order of priority: the husband (L1.1a) or the wife (L1.2a), a child (L1.3a), a parent (L1.4a), a brother or sister (L1.5a), and everyone further out on L1.6a, *Other Applications*. The "b" forms are the same applications where the death was before 11 February 2006	With the application for letters of administration; **14 days** minimum after the death for a spouse	**HK$265** on filing
N1.1 – N1.3	Summary administration under s 15 of the Probate and Administration Ordinance (the Probate Registry's own route, not the Home Affairs confirmation notice): **N1.1** affirms the schedule of assets, which is itself form **N4.1**; **N1.2** and **N1.3** are the corrective additional schedules sworn if an asset is discovered before or after the order	With the application to the Official Administrator	Per the scale on filing
N3.1	Schedule of Hong Kong assets for resealing a foreign grant	With the sealed foreign grant	HK$265 + HK$72

Probate Registry — the contentious forms, when a will is disputed

Form	What it is	Deadline or life	Fee
C1.1 caveat	Stops a grant being sealed without notice to the caveator	Life of **6 months**; an address for service in Hong Kong is mandatory	**HK$72**
C1.2 withdrawal	Withdraws the caveat	At any time before the grant	**HK$36**
C1.3 warning	Requires the caveator to state the interest relied on	Draft submitted for the Registrar's approval first	**HK$145**, plus **HK$44** for service
C1.4 appearance	The caveator's answer, stating the contrary interest	**8 days** after service of the warning; no appearance and the caveat ceases to be in force	No fee

The specimens for every form in these two tables are on the probate page — W1.1a and N2.1 filled in, the W1.4a route, the power of attorney, the renunciation, the citation, the caveat and the summary administration. This page carries the documents that come before a death and the ones that follow a dispute.

Small estates — the two routes that avoid a grant entirely

Route	Who applies, and on what form	Limit	Timing
Confirmation Notice — Home Affairs Department	The executor, or the person entitled in priority, applies on **HAEU5** to the Estate Beneficiaries Support Unit	An estate **wholly made up of money** not exceeding **HK$50,000**; no property held as trustee or for a Tso or Tong	Notice issued within **12 working days**; the oath is taken and the notice collected by appointment
Summary administration — Official Administrator	The person entitled applies to the Official Administrator on **N1.1**, affirming the schedule of assets on **N4.1**; the Official Administrator acts under s 15 of the Probate and Administration Ordinance	An estate the Official Administrator considers does not exceed **HK$150,000** — usually cash, bank deposits and MPF	No grant issues and the order is not a formality of the estate: the administrator gets in and distributes, and N1.2 or N1.3 catches anything the schedule missed
Inspection of a deposit box	**HAEU4B**, with a certificate of necessity	Any estate where the will may be in a bank box	Inspection in the presence of Home Affairs officers — the usual first step when the original will is missing

Court and registry documents — where the trust or the will ends up in front of a judge

Document	When it is used	Court and originating process
Originating summons — rectification (Cap 30, s 23A)	A clerical error, or instructions the drafter did not carry out	Court of First Instance, HCMP; Order 76 applies to probate causes and the application is treated as a probate action where the grant has not been lodged (O.76, r.16)
Originating summons — construction	The will is ambiguous, or a gift has failed and nobody knows who takes	Court of First Instance, HCMP, on affidavit evidence — extrinsic evidence is admissible only within s 23B
Application to deem a document duly executed (Cap 30, s 5(2))	The will or codicil did not meet section 5, and the family wants it admitted	Court of First Instance; the standard is that there can be **no reasonable doubt** that the document embodies the deceased's intentions
Trustee's application for directions	The trustee cannot decide alone: whether to litigate, how to construe the deed, whether to distribute	HCMP originating summons, or a summons in an existing trust action, supported by an affirmation exhibiting the deed, the accounts and the advice taken
Application to remove or appoint a trustee	Deadlock, misconduct, or a trustee who has disappeared	Court's power under s 42 of the Trustee Ordinance; HCMP originating summons. A beneficiaries' direction under s 40A is the court-free alternative
Writ — probate action (O.76)	The validity of the will itself is challenged: forgery, want of capacity, undue influence	Court of First Instance; a probate action within the meaning of O.76, r.1, with pleadings and a trial
Citation and caveat (C1.1 – C2.1)	Someone is blocking, or someone is silent	Probate Registry, non-contentious — see the probate page

8 The enduring power of attorney

A will deals with what happens after death. An **enduring power of attorney** deals with what happens while the client is alive but can no longer manage — and that is why the two are usually done together. The EPA is made under the Enduring Powers of Attorney Ordinance (Cap 501) in a prescribed form, and it does nothing at all until it has been registered in the High Court.

The prescribed forms, and what each is for

Form	When it is used	Where it is filed
Form 1	One attorney — the form itself tells the donor to use it where only one attorney is appointed	Kept by the attorney; the original is lodged for registration at the High Court when the donor becomes mentally incapable
Form 2	More than one attorney — appointed jointly, or jointly and severally	Same
Prescribed by	Enduring Powers of Attorney (Prescribed Form) Regulation (Cap 501A), Schedule 1. The form must be used as printed: blanks filled in or deleted, and the matters, property and affairs stated (s 8(1)(b)). The only clauses that may be varied are clauses 2 and 3 of Part A of Form 1, or clauses 3 and 4 of Part A of Form 2 — and the registration application must say whether they have been	

Signing: two witnesses, two certificates, three bars

The execution requirements

Requirement	Detail
Donor signs before both	Before a **registered medical practitioner** and a **solicitor** (s 5). Ideally all three are present at once; if not, the donor signs before the solicitor **not more than 28 days** after signing before the practitioner
Medical certificate	The registered medical practitioner certifies that the donor was mentally capable when signing (s 5(2)(e))
Solicitor's certificate	The solicitor certifies that the donor appeared to be mentally capable (s 5(2)(d))
Who may not witness	The witnessing solicitor or practitioner, their spouses, and relatives by blood or marriage cannot also be the attorney (s 5(2)(aa))
Attorney signs	The attorney signs before a witness, who signs and gives a full name and address (Cap 501A, s 3). The donor must not witness the attorney's signature, and one attorney must not witness another's
Particulars in the instrument	The two certifying professionals must give their full names and addresses in the form
Capacity is the whole point	Without the certificates the document is an ordinary power of attorney, which ends the moment the donor loses capacity — the very event it was meant to cover

EPAA Form 1 — enduring power of attorney, execution page	Specimen · example only
Form	Form 1 — one attorney. Had the donor wanted his two daughters to act together, the prescribed form would be Form 2
Donor	NG Chak Man, of Flat 8A, Block 3, Grandview Garden, 88 Tai Po Road, Sham Shui Po, Hong Kong — aged 81
Attorney	NG Wai Lam, Jason, of 12/F, Tower 2, Metro Harbour View, 8 Fuk Lee Street, Tai Kok Tsui — the donor's son, aged 47, not bankrupt and not mentally incapable
Part A, paragraph 1	Appointment of the attorney, with his name and address exactly as the form requires
Part A, clauses 2 and 3	Left unaltered — no restriction on gifts, and none on the attorney's powers over the donor's residence. Had either been varied, the variation would be declared in the registration application
Matters covered	All the donor's property and financial affairs in Hong Kong: the bank accounts, the flat at Sham Shui Po, the MPF benefits and the tax filings — stated, because a blank has to be deleted and an unstated matter falls outside the power
Donor's signature	Signed by the donor on 3 March 2027 in the presence of Dr LAU Suk Yee, registered medical practitioner (M12345), of 5/F, 21 Argyle Street, Mong Kok
Medical certificate	Dr LAU certifies that she examined the donor on 3 March 2027, that he appeared mentally capable within the meaning of section 2, and that he understood the nature and effect of the instrument
Solicitor's certificate	Signed by HO Man Kit, solicitor (HK solicitor no. 54321), of 18/F, 1 Queen's Road Central — the donor signed in his presence on 10 March 2027, within 28 days of the medical signature, and appeared mentally capable
Attorney's signature	Signed by NG Wai Lam, Jason on 12 March 2027 before a witness, who signed and gave a full name and address. The donor did not witness it
Copies	The original kept by the solicitor with the file; a certified copy to the attorney; the family told where the original is, because it is the original that must be registered

Two witnesses, two certificates, and at most 28 days between them · the witnessing professionals cannot be the attorney or a relative · the attorney's signature needs its own independent witness · blanks are deleted, not left

Registration: the step that gives it effect

An EPA is not a document that sits in a drawer and works when needed. Section 4(3) is explicit: the attorney must not do anything under the authority of the power unless and until it is registered. The duty to apply arises once the attorney has reason to believe the donor is or is becoming mentally incapable, and it is a duty to apply *as soon as practicable*.

- **The trigger**The attorney forms the belief that the donor is or is becoming mentally incapable — usually on medical advice, and the advice belongs on the file.
- **Book the appointment**From 6 July 2026 an appointment at the High Court Registry is required in every case, legally represented or not, through the Judiciary's e-Appointment System.
- **The covering letter**To the Registrar of the High Court, stating the names and addresses of the donor and of the attorney (or each attorney), and whether any variations or additions were made to clauses 2 and 3 of Part A of Form 1, or clauses 3 and 4 of Part A of Form 2.
- **The instrument**The **original** and a **certified copy** of the EPA.
- **Proof of practice**Copies of the practising certificates of both the solicitor and the registered medical practitioner who witnessed the donor's signature — and the execution date must fall inside their validity.
- **The fee****HK$440** under the First Schedule to the High Court Fees Rules (Cap 4D), paid at the Accounts Office, LG2, High Court Building.
- **Lodging**Personally, at Room LG158 (Counter 4), LG1, High Court Building, 38 Queensway.
- **Registration**With the Registrar's leave the instrument is registered, and the Registry writes to the donor confirming registration, with its date and number. That letter and the registration number go on the file.

Application to register an EPA — the covering letter and its enclosures	Specimen · example only
Addressed to	The Registrar, High Court, 38 Queensway, Hong Kong
Subject	Application under section 9 of the Enduring Powers of Attorney Ordinance (Cap 501) to register an instrument creating an enduring power of attorney
Donor	NG Chak Man, Flat 8A, Block 3, Grandview Garden, 88 Tai Po Road, Sham Shui Po
Attorney	NG Wai Lam, Jason, 12/F, Tower 2, Metro Harbour View, 8 Fuk Lee Street, Tai Kok Tsui — the sole attorney under Form 1
Variations declared	None. Clauses 2 and 3 of Part A of Form 1 are unaltered — the sentence the Registrar's checklist asks for, and an omission delays registration
The trigger, stated	The attorney formed the belief that the donor was becoming mentally incapable on 14 January 2028, on the report of Dr LAU Suk Yee; the application follows as soon as practicable
Enclosures	The original EPA; one certified copy; copies of the practising certificates of HO Man Kit, solicitor, and Dr LAU Suk Yee; the covering letter
Fee	**HK$440**, paid at the Accounts Office, LG2, before lodging
Lodged	By appointment, personally, at Room LG158 (Counter 4), LG1 — the applicant attends, not a courier
Afterwards	Registration with the leave of the Registrar; the Registry's letter to the donor gives the date and number of registration, which are recorded on the file and used whenever the attorney acts
What the attorney may then do	Act within the powers in the instrument over the donor's property and financial affairs — and nothing beyond them. Gifts, the donor's home and any restriction written into the form are governed by the form itself

As soon as practicable after the belief arises · nothing may be done under the power before registration · original plus certified copy, both practising certificates, HK$440 · appointment booked first

THREE WAYS AN EPA FAILS

One witness instead of two. A power signed only before a solicitor is an ordinary power of attorney: it dies at the moment incapacity begins, which is the moment it was needed.

Signed but never registered. An attorney who pays a care home fee or sells a flat before registration has acted without authority, however genuine the need.

A relative as witness. If the witnessing solicitor or doctor is the attorney, the attorney's spouse, or a relative of the donor or the attorney, the execution is bad and the whole instrument is at risk.

9 Court documents: three specimens

Three applications cover most of what a private client team sends to the High Court: rectifying a will that says the wrong thing, asking the court what a trust deed means, and asking whether the trustee may fight. Each is started by originating summons on affidavit evidence, and each is decided on the documents unless the court orders otherwise.

Originating summons — rectification of a will (Cap 30, s 23A) Specimen · example only	
Heading	In the High Court of the HKSAR, Court of First Instance, HCMP 2140/2029 — in the matter of the estate of YEUNG Kwok Wai, Patrick, deceased, and in the matter of section 23A of the Wills Ordinance (Cap 30)
Parties	YEUNG Chan Siu Fung, Amy, the executrix named in the will (applicant) · the other beneficiaries, named as respondents
What has gone wrong	Clause 7 of the will dated 18 November 2026 gives HK$200,000 to The Community Chest. The written instructions of 12 November 2026 said HK$2,000,000, and the attendance note records the figure being read back and confirmed
The ground	A clerical error within s 23A(1)(a): a missing zero in the engrossing of the will. The alternative ground, a failure to understand instructions under s 23A(1)(b), is pleaded in the alternative
What the summons asks	An order that the will be rectified by substituting "HK$2,000,000" for "HK$200,000" in clause 7, and that a copy of the order be sent to the Principal Registry for filing and a memorandum endorsed on the grant (O.76, r.16(2))
Evidence filed	The applicant's affirmation exhibiting the will, the signed instructions, the drafting solicitor's attendance note, the draft sent for approval showing HK$2,000,000, and the grant
Time limit	Within **6 months** of representation first being taken out; after that, only with the court's permission (s 23A(2)). Filed here on 3 July 2029, against a grant of 9 April 2029
Protection for the executrix	Distribution after the six months does not make the personal representative liable for not having anticipated a permitted late application (s 23A(3)) — but prudence says distribute nothing affected by the application until it is decided
Fee	**HK$1,045** to seal the originating summons in the Court of First Instance — the same fee as any other originating summons; there is no separate probate rate
What happens next	Directions on the papers; the respondents usually take no active part where the error is admitted; the order is sealed, the will is annotated, and a copy goes to the Principal Registry

Six months from the grant, not from the death · two grounds only — clerical error or misunderstood instructions, never "the family thinks it unfair" · the will must be lodged for endorsement · HK$1,045 to seal

Originating summons — trustee's application for directions Specimen · example only	
Heading	HCMP 3318/2030 — in the matter of the Sun Family Trust, a trust governed by the law of the Hong Kong Special Administrative Region
Parties	Pinecrest Fiduciary Limited and SUN Wei Ming, Eric (trustees, applicants) · the beneficiaries, represented by a guardian ad litem for the minors
Why the court is asked	The trust holds 600,000 shares in Sunfield Engineering Limited, a private company. A minority shareholder has offered HK$24,000,000 for the whole holding, and one beneficiary wants the money distributed now; the settlor's letter of wishes asks that the shares be retained while his son works in the business
The questions asked	"1. Whether the trustees may sell the shareholding having regard to clause 5 of the trust deed and the letter of wishes dated 18 November 2026. 2. If so, whether the trustees may retain the proceeds as capital. 3. Whether the trustees may pay the costs of this application out of the Trust Fund"
Why directions rather than a decision	A discretionary trustee who acts on a non-binding letter of wishes, against a beneficiary's objection, is exposed to a breach of trust claim. A direction protects the trustee who has made full disclosure — and costs usually follow the fund
Evidence	Affirmation of the director of the trustee company exhibiting the trust deed, the letter of wishes, three years of accounts, the offer letter, the valuation, the correspondence with the beneficiaries, and counsel's advice
Service	On every beneficiary who is sui juris, and on a guardian ad litem for the minors; the Protector is served and may be heard
Fee	**HK$1,045** to seal in the Court of First Instance; costs of all parties usually paid out of the Trust Fund, which is why the order asks for it expressly
Trap	Directions are not advisory opinions on a hypothesis: the trustees must have decided in principle what they want to do, and must put the actual question. "What should we do?" is not an application the court will entertain

Served on every beneficiary, with a guardian ad litem for the minors · the deed, the accounts and the advice all exhibited — nothing left in the file · ask for costs out of the fund, or the trustees pay personally

Affirmation in support — the evidence behind a trustee's summons	Specimen · example only
Deponent	CHEUNG Ka Wai, Ivan, director of Pinecrest Fiduciary Limited, of 30/F, Two Exchange Square, 8 Connaught Place, Hong Kong
Paragraph 1 — the trust	The trust was created by a deed dated 18 November 2026 between SUN Wei Ming, Eric, as settlor, and Harbourview Trust Services Limited as original trustee. I exhibit a copy of the deed at "ICW-1"
Paragraph 2 — the assets	The Trust Fund consists of cash of HK$4,591,000, a flat in Tai Po valued at HK$11,200,000, and 600,000 shares in Sunfield Engineering Limited valued at HK$2,800,000 — HK$18,591,000 in all, as the accounts for the year ended 31 December 2029 at "ICW-2" show
Paragraph 3 — the offer	By a letter dated 14 February 2030 the minority shareholder offered HK$40 per share for the entire holding, conditional on 100% acceptance. The letter and the valuation of 6 January 2030 are at "ICW-3"
Paragraph 4 — the letter of wishes	The settlor's letter of wishes dated 18 November 2026 asks that the shares be retained while his son works in the business. It is not part of the deed and does not bind the trustees. It is at "ICW-4"
Paragraph 5 — the beneficiaries' positions	The settlor's widow supports a sale. His son, who is a director of the company, objects. The two younger children are minors and their guardian ad litem has been served. The correspondence is at "ICW-5"
Paragraph 6 — advice and decision in principle	Counsel advised on 2 March 2030 that a sale is within clause 5 and that retention is not obligatory. The trustees have resolved in principle to sell if the price is not less than HK$38 per share, and ask the court whether that course is proper
Paragraph 7 — costs	The trustees ask that the costs of this application be paid out of the Trust Fund on the indemnity basis, no beneficiary opposing
Exhibits and swearing	ICW-1 to ICW-5, each marked and paginated; affirmed before a solicitor on 12 March 2030; a copy served with the summons

Full and frank disclosure is what buys the trustee its protection — an affirmation that leaves out the beneficiary who objects is worse than no application · exhibit, paginate, and refer to each exhibit in the paragraph that uses it

10 Worked examples

Four files, followed from the first instruction to the last receipt: an estate administered on the court's timetable, a trust funded with shares and the duty on it, three years of a discretionary trust, and a will that failed the ceremony and had to be rescued.

Worked example 1 — an estate from death to distribution	Specimen · example only
The deceased	TAM Wai Keung, died 14 March 2029, aged 74. Will dated 4 May 2021, appointing his widow TAM Ho Lai Ping and his son TAM Chun Yin as executors
What the will does	The shop unit at 15 Kwai Chung Road goes to the son; the residue goes to the widow. The flat at 8 Greenview Terrace is held by the spouses as **joint tenants**, so it passes by survivorship and is not in the estate at all
Estate, at the date of death	Shop unit HK$6,800,000 · listed shares HK$1,450,000 · bank accounts HK$620,000 · MPF HK$780,000 nominated to the daughter, so outside the estate · less mortgage HK$1,100,000, final tax HK$36,000, funeral HK$92,000
Net estate	**HK$7,642,000** — and the flat and the MPF never enter the arithmetic
16 March 2029	Original will located in the firm's deeds room; copy released to the executors; probate search ordered to confirm no other grant has issued
20 March 2029	Assets and liabilities written to the banks and the share registrar as at 14 March; the mortgagee confirms the redemption figure, valid for 30 days
4 April 2029	W1.1a and N2.1 sworn by both executors; the will exhibited; the schedule values every Hong Kong asset
6 April 2029	Application filed at the Probate Registry — **HK$265**
24 April 2029	Requisition: the bank balance is stated at the date of the letter, not at death. Answered on 28 April with a bank statement as at 14 March
15 May 2029	Grant of probate issued, five weeks and six days after filing, and **HK$72** for engrossment. Sealed copies ordered for the bank, the registrar and the Land Registry
June to July 2029	Accounts closed and collected; shares sold; the shop unit assented to the son, with the assent registered at the Land Registry; the mortgage redeemed
20 August 2029	Distribution: shop unit to the son (HK$6,800,000, already transferred), residue of **HK$842,000** to the widow after the mortgage, tax, funeral, costs and the shop's transfer costs
14 March 2030	The executor's year ends. Final tax return filed, accounts closed, receipts and a distribution schedule kept on the estate file for six years

Court fees HK$337 in total — HK$265 to file and HK$72 to engross · the joint flat and the nominated MPF are the two items that never appear in the schedule · the requisition is the normal course, not a mistake: answer it with a document, not an explanation

Worked example 2 — funding a trust with shares, and the duty on the transfer Specimen · example only

Sun Family Trust — settlement of 1,200,000 shares in Sunfield Engineering Limited

Step	Working	Amount (HK$)
Shares settled	1,200,000 shares at HK$4.50, the agreed value on the transfer	5,400,000
Sold note duty	5,400,000 × 0.1%	5,400
Bought note duty	5,400,000 × 0.1%	5,400
Instrument of transfer	Fixed duty on a sale	5
Total duty	5,400 + 5,400 + 5	**10,805**
Trust deed itself	No stamp duty on a deed of trust that transfers nothing	0
Contract notes	Stamped within **2 days** of the sale — the trust changes nothing about that deadline	—

0.1% on each note is the whole of the duty — there is no trust rate and no trust relief · HK$5 on the instrument for a sale, not for a gift · stamp first, register second: an unstamped instrument cannot be registered

Worked example 3 — three years of a discretionary trust Specimen · example only

Sun Family Trust — accounts and distributions, 2027 to 2029

Year	Opening fund (HK$)	Income (HK$)	Distribution (HK$)	Closing fund (HK$)
2027	18,400,000	412,000	250,000 — Chloe, final year of study	18,562,000
2028	18,562,000	438,000	800,000 — Anson, deposit on a flat	18,200,000
2029	18,200,000	391,000	Nil — the trustees resolved to retain	18,591,000

A discretionary trust is administered by minutes, not by filings · the arithmetic is the audit: income less distributions must equal the movement in the fund · retain the letter of wishes with the minutes for the year it was followed

Worked example 4 — a will that failed the ceremony, and the section 5(2) rescue Specimen · example only

What happened	The deceased signed his will at home on a Sunday. His neighbour signed as the first witness. The second witness, his nephew, was not there and signed the following morning, alone with the deceased
Why it fails	Section 5(1)(c) requires the signature to be made or acknowledged in the presence of **two or more witnesses present at the same time**. Sequential witnessing does not satisfy it, however honest everybody was
The rescue	Section 5(2): the court may deem the document duly executed if satisfied that there can be **no reasonable doubt** that it embodies the deceased's testamentary intentions. It is a discretionary jurisdiction, not a right
The evidence that decides it	Affirmations from both witnesses about the sequence; the solicitor's file with the draft and the instructions; emails from the deceased about the will; the original document showing no alteration; medical evidence of capacity if it is challenged
Why the family bothers	The estate is HK$7,642,000. Under the will the shop worth HK$6,800,000 goes to the son and the widow takes the residue of HK$842,000. On intestacy the widow takes the chattels, HK$500,000 and half the residue — HK$4,071,000 — and the two children share HK$3,571,000, so the son receives HK$1,785,500 instead of the shop
What it costs	HK$1,045 to seal the application, counsel's fees, and six to twelve months during which the estate cannot be distributed. The cheaper answer was a 30-minute appointment with two witnesses in the room
If the application fails	The estate is administered on intestacy under Cap 73, and the shop is sold or transferred to the estate and divided by statute. Nothing in the will is given effect
What to do instead, every time	Both witnesses in the room, present together, signing on the same day, with the attestation clause completed and an execution record written the same afternoon

Sequential witnessing is the commonest defect there is · s 5(2) asks for no reasonable doubt, which is a higher standard than the ordinary civil one · the intestacy comparison is the figure to put in front of a client who wants to sign at home

11 Every deadline on one page

Wills, trusts and estates — the dates that are enforced

Deadline	What it applies to	Source
2 days	Stamping the contract notes on a transfer of Hong Kong shares into a trust (30 days if the sale was effected outside Hong Kong)	Stamp Duty Ordinance (Cap 117)
30 days	Stamping a conveyance of property into a trust, from the date of the conveyance	Cap 117
14 days	Minimum period after death before an application for letters of administration	Probate practice
8 days	Appearance to a warning to a caveator; no appearance and the caveat ceases to be in force	Non-contentious probate rules — C1.4
6 months	Life of a caveat from entry, unless withdrawn	C1.1
6 months	To apply to rectify a will, from representation first being taken out; later only with the court's permission	Cap 30, s 23A(2)
6 months	To apply for family provision out of the estate, from the grant	Cap 481, s 6
12 working days	Home Affairs Department confirmation notice for an estate wholly made up of money up to HK$50,000	HAD, Estate Beneficiaries Support Unit
5 to 7 weeks	Typical time from filing to grant in a straightforward estate — a benchmark, not a deadline	Probate Registry guidance
12 months	The executor's year — the benchmark for completing the administration, not a statutory cut-off	Probate practice
3 years	Review of a will and of a trust deed — practice, not law, and the interval that catches marriages, births and deaths	Firm practice
None	Filing a will, creating a trust, appointing a trustee, distributing from a trust: nothing is filed and there is no deadline, which is why the file has to carry its own discipline	—

12 What it costs

Fees and duties — wills and trusts

Item	Amount	When it is paid
Making a will	**No court fee, no filing fee**	Nothing is registered anywhere; the cost is professional time
Registering a will	**Nothing to register**	Hong Kong has no central wills registry — custody, not registration, is the safeguard
Probate court fee — filing	**HK$265**	When the application for the grant is filed
Engrossment of the grant	**HK$72 per page**	When the grant issues
Caveat and warning	**HK$72** caveat · **HK$145** warning, plus **HK$44** for service	Only where the will is contested — see the probate page
Estate duty	**None**	Abolished for deaths on or after 11 February 2006; no clearance papers are needed for a grant
Inheritance, gift or capital gains tax	**None**	Hong Kong imposes none of them
Registering an enduring power of attorney	**HK$440**	On application to the Registrar of the High Court, once the attorney believes the donor is becoming mentally incapable — nothing may be done under the power before registration
Creating a trust	**No government fee**	No deed is registered and no annual return is filed
Funding a trust with Hong Kong shares	**0.1%** on the sold note and **0.1%** on the bought note, plus **HK$5** on the instrument	Contract notes within **2 days** of the sale — the trust adds nothing to the rate, but the deadline still applies
Funding a trust with property	Ad valorem duty as on any conveyance, on the consideration or value, whichever is higher	Within 30 days of the conveyance; rates on the stamp duty page
Land Registry memorial	Per the registration scale	On registering the transfer into the trustees' names
Trust company acting as trustee	TCSP licence under Cap 615 if acting by way of business	Before it takes office — check the licence number on the register

The absence of estate duty is not the absence of cost. What an estate pays for is the administration: the grant, the valuations, the conveyancing to transfer the flat, the tax returns for the final years, and professional time. A trust pays for its own administration every year — trustee fees, accounts, tax returns and the review — and a trust that nobody accounts for is a trust that cannot show what it did with the money.

13 Timeline

From instructions to a working trust

Stage	Timing	Who acts
Will — instructions to draft	3 to 10 days	Paralegal takes the schedule; the solicitor approves the draft
Will — draft to approval	Allow a week; never sign on the day the draft is sent	Client confirms in writing
Will — execution appointment	30 to 45 minutes, both witnesses present	Testator and two witnesses; the person conducting signs the record
Will — review	Every 3 years, and on marriage, dissolution, birth, a death among the executors or beneficiaries, a move abroad, or the acquisition of a business	Diarised at execution, not remembered later
Trust — instructions to signed deed	1 to 3 weeks	Settlor, trustee (with due diligence), Protector
Trust — funding	Same day for cash; 2 to 4 weeks for shares and property	Instrument of transfer and stamping within 2 days of the contract note; Land Registry memorial for land
Trust — first trustee meeting	Within 3 months of funding	Trustee: adopt accounts, investment policy, distribution plan
Trust — annual cycle	Annually: accounts, review of distributions, review of the letter of wishes	Trustee; Protector receives the accounts
EPA — instructions to a signed instrument	2 to 4 weeks, because the signing appointment needs the donor, a registered medical practitioner and a solicitor in the same room	Paralegal drafts on Form 1 or Form 2; the solicitor approves; the doctor's appointment is booked before the draft is finalised
EPA — signing appointment	30 to 45 minutes, all three present: the donor signs, both witnesses sign, both certificates are completed, and the attorney's signature is witnessed separately	Donor, registered medical practitioner, solicitor; the appointment is recorded the same day
EPA — registration	**No fixed deadline**: the duty is to apply *as soon as practicable* once the attorney has reason to believe the donor is or is becoming mentally incapable. Nothing may be done under the power before the instrument is registered	Attorney applies to the Registrar of the High Court with the original, a certified copy and both practising certificates; HK$440
EPA — review	With the will, every 3 years, and on a diagnosis affecting capacity, the death or incapacity of an attorney, a change of address, or a substantial change in the donor's assets	Donor, while capable; a new instrument, not an alteration, if the attorney or the terms have to change
Death to grant	14 days minimum before an administration application; typically 5 to 7 weeks for a simple estate	Executor, through the Probate Registry
Administration to distribution	Within the executor's year where possible	Executor: collect assets, clear debts, distribute

14 What goes wrong

- **The witnesses were not in the room together.** Two neighbours who signed on different days is the commonest defective will there is, and section 5 requires them present at the same time when the testator signs or acknowledges.
- **A beneficiary witnessed the will.** The gift to that witness — and to the spouse of a witness — is void under s 10, even though the rest of the will stands. Ask who the witnesses are, by name, before the appointment.

- **The original cannot be found.** With no central registry, a lost original is presumed destroyed. The firm's storage record and the client's letter are the only counter-evidence, and they are worth nothing if they were never written.
- **Marriage revoked the will and nobody asked.** Section 14 revokes the whole will unless it was made in contemplation of that marriage. An engagement is a question on the instructions sheet, not an assumption.
- **The divorced spouse is still the executor.** Section 15 treats the appointment of a former spouse as omitted and lapses gifts to them, but it does not revoke the will — and it does not remove the former spouse as a trustee of a trust the will creates.
- **A signed will is corrected by hand.** An alteration after execution is invalid unless executed like a will (s 16), and the correction often casts doubt on the rest of the page.
- **The trust deed is a foreign precedent.** A perpetual trust clause abolished in 2013, no Part 4A power to appoint agents, no charging clause, and a governing law clause pointing at another country — all of it discoverable only when the trustee tries to act.
- **The letter of wishes is treated as the deed.** Trustees who follow a non-binding letter without exercising their own discretion are acting under dictation; trustees who ignore it without recording why look arbitrary. Minute the decision either way.
- **A trustee retires and nothing is re-registered.** The vesting under s 41 does not change the registered owner of shares or the memorial at the Land Registry. The bank mandate, the share registrar and the insurer all need the deed.
- **Nobody accounts for the trust.** There is no filing deadline to force it, which is precisely why annual accounts and signed minutes are the trustee's only protection when a beneficiary asks what happened to twenty years of income.
- **The EPA is signed before a solicitor only.** Two witnesses are required — a registered medical practitioner and a solicitor, with a certificate from each. Without both, the power ends when capacity does.
- **The EPA is signed but never registered.** The attorney cannot do anything under the power until the instrument is registered in the High Court, and the duty to apply arises as soon as practicable.
- **A relative witnesses the EPA.** The witnessing solicitor or doctor cannot be the attorney, the attorney's spouse, or a relative by blood or marriage of the donor or the attorney.

15 Checklist

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- Asset schedule completed, with joint tenancy versus tenancy in common established from the assignment
- Prior will or codicil produced, or a note on file that there is none
- Marriage, engagement, dissolution and recent bereavement asked about and recorded
- Executors asked in advance; not more than four; a substitute named for each
- Witnesses chosen who are not beneficiaries and not married to one (s 10)
- Draft sent for written approval; the approval is on file
- Execution: all three present together, testator signs, both witnesses sign, attestation completed, date inserted
- Execution record written the same day and signed by the person who conducted the appointment
- Original stored and its location recorded; copy and letter to the client; review date diarised
- Enduring power of attorney considered alongside the will, and the family told where the original is kept
- EPA Form 1 or Form 2 used as printed; matters, property and affairs stated; blanks filled or deleted
- EPA signed before a registered medical practitioner and a solicitor, both certificates signed, neither witness an attorney or relative
- Attorney's signature witnessed separately, with the witness's full name and address
- Registration diarised: appointment booked, covering letter, original and certified copy, both practising certificates, HK$440
- Trust deed checked for: parties, beneficiaries, distribution power, default clause, trustee powers, duty of care, exemption limits (s 41W), Protector, governing law
- Trust funded and the transfers stamped within 2 days (shares) or 30 days (property); memorial registered for land
- Trustee acceptance, due diligence and TCSP licence number on file
- Letter of wishes signed, dated and marked as non-binding; superseded versions marked superseded
- Annual trustee meeting diarised: accounts, distributions, review of the letter of wishes
- Change of trustee: deed executed, s 41 vesting recorded, banks, registrars and insurer notified, handover schedule signed

16 Sources

- Wills Ordinance (Cap 30): ss 3 (property disposable by will), 4 (age), 5 (signing and witnessing; s 5(2) dispensing power), 6 (privileged wills), 10 (gifts to attesting witnesses and their spouses void), 13 (modes of revocation), 14 (revocation by marriage), 15 (effect of dissolution or annulment), 16 (alterations after execution), 17 (revival), 23A (rectification).
- Probate and Administration Ordinance (Cap 10), s 25 (no grant to more than four personal representatives); Probate Registry practice on the grant, and the fees at HK$265 on filing and HK$72 per page engrossed.
- Enduring Powers of Attorney Ordinance (Cap 501), ss 2, 4 (duty to register; nothing may be done before registration), 5 (execution before a registered medical practitioner and a solicitor, the two certificates, the independence bar), 8 (scope of the power), 9 (application to the Registrar of the High Court); Enduring Powers of Attorney (Prescribed Form) Regulation (Cap 501A), Schedule 1 (Forms 1 and 2) and s 3 (attorney's signature and witness); Enduring Powers of Attorney (Registration) Rules (Cap 4E); High Court Fees Rules (Cap 4D), First Schedule (HK$440); Judiciary, *How to apply for registration of an Enduring Power of Attorney at the High Court*.

- Trustee Ordinance (Cap 29): s 3A and Schedule 3 (statutory duty of care), ss 36–41 (number of trustees, appointment of new or additional trustees, supplemental provisions, vacancy, retirement, vesting in new trustees), s 40A (change of trustee on beneficiaries' directions), Part 4A (agents, nominees and custodians), s 41W (a professional trustee cannot be exempted from liability for fraud, wilful misconduct or gross negligence), s 41X (powers reserved by the settlor), s 41Y (foreign forced heirship).
- Trust Law (Amendment) Ordinance 2013, in force 1 December 2013 — the statutory duty of care, the extended trustee powers, and the abolition of the rule against perpetuities and the rule against excessive accumulations except for charitable trusts.
- Perpetuities and Accumulations Ordinance (Cap 257) — still relevant to trusts created before 1 December 2013.
- Revenue (Abolition of Estate Duty) Ordinance 2005 — estate duty abolished for deaths on or after 11 February 2006; no estate duty affidavit or clearance is needed for a grant (Inland Revenue Department).
- Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap 615) — trust or company service provider licensing for a company acting as trustee by way of business.
- Stamp Duty Ordinance (Cap 117) and the Stamp Office guidance on transfers of Hong Kong stock (0.1% on each contract note, HK$5 on the instrument) and on conveyances on sale.
- Legislative Council, reply to LCQ21 on the system for handling wills, 11 November 2026 — Hong Kong has no official centralised will registration system.
- Judiciary, Probate Registry guidance on applying for a grant, and the Resource Centre for Unrepresented Litigants on enforcement of judgments and estates.