

# Probate - disclaimer of an inheritance

Anyone who does not wish to be an heir must disclaim the inheritance in due time and form

## Competent Department

- [Amtsgericht Bremen](#)
- [Amtsgericht Bremen-Blumenthal](#)
- [Amtsgericht Bremerhaven](#)

## Basic information

The heir may waive the inheritance if it has not yet been accepted and the deadline for waiver has not yet expired. The inheritance is deemed to have been accepted once the deadline has expired.

## Requirements

Your waiver of inheritance is only effective if your signature has been notarized by a notary of your choice and the declaration is received by the probate court within the waiver period.

The waiver can also be notarized at the court of your place of residence or the Bremen district court as the locally competent court within the waiver period.

## What documents do I need?

- when disclaiming an inheritance

At the time of notarisation of the rash declaration, it is mandatory to prove your identity by means of an official photo identification (valid identity card or passport). If available, the death certificate of the deceased must also be presented.

## Procedure

The disclaimer must be declared in publicly certified form or on the record of the probate court, i.e.

a) the signature must either be certified by a notary public or

- b) the declaration must be certified by the probate court.
- c) the declaration must be certified by the court of residence of the disclaiming party, or
- d) be certified by any other probate court.

As a result of a declaration of disclaimer, the inheritance falls to the children and also to the grandchildren or great-grandchildren, etc. of the disclaiming party, as well as, if applicable, to other relatives in the collateral line, in the probate proceedings that are governed by the legal succession.

For minor children, the legal representative decides whether the inheritance is to be disclaimed. As a rule, the legal representatives are the parents of the children jointly. The disclaimer of inheritance for the children is then only effective if it is made by both parents. Both parents can also declare the disclaimer separately. Anyone who has sole custody of minor children or no custody at all should mention this in the disclaimer.

Under certain circumstances, the approval of the family court is required. This must then be proven to the probate court within the disclaimer period.

A proxy can only submit the disclaimer if the power of attorney is publicly certified. This power of attorney must be enclosed with the declaration or brought forward within the disclaimer period (Section 1945 (3) of the German Civil Code).

## **Legal bases**

- [§§ 1944 ff. Bürgerliches Gesetzbuch \(BGB\)](#)

## **More information**

The probate court is the local court at the last habitual residence of the deceased. This is not necessarily the last place of residence under registration law, but the place where the deceased last lived.

For the notarization of declarations of renunciation at the local courts of Bremen and Bremen-Blumenthal, an appointment must be made via the responsible office.

## **What deadlines must be paid attention to?**

The deadline for rejection is 6 weeks. However, it is 6 months if the testator's last habitual residence was abroad or if the person to whom the inheritance accrued was abroad when the period commenced.

The period begins with the knowledge of the accrual of the inheritance and the reason for the appointment as heir (i.e. on the basis of the notification of the existence and contents of a will or on the basis of the notification that at least one heir who is ahead in the succession has rejected the inheritance) and can therefore also be well after the date of death of the testator.

When notarising the rash declaration at the court of residence or at the competent probate court, the declaration is declared to be in compliance with the deadline with the signature provided. In the case of notarisation by a notary public or by a court other than those mentioned above, the declaration of rejection only becomes effective within the deadline if it is received by the competent probate court. The risk for this shall be borne by the person making the rash declaration.

The person to whom the inheritance only accrues on the basis of a disclaimer by a previously appointed heir is notified by the probate court.

If a will exists, the period does not begin before the testator makes the will and informs the heirs.

## **What are the costs?**

30,00 EUR The fee for notarisation of the rash declaration at the local court is usually 30 Euros. It is advisable to reject with several persons at the same time.

The notary's fees are charged according to the same law. The notary also charges the value added tax and any expenses.

## **Frequently asked Questions**

- **Will I be informed by the probate court about a case of inheritance?  
What if I had no contact with the decedent?**

The probate court shall inform an heir of the accrual of an inheritance only in the following cases:

(a) In the context of the opening of one or more wills/ inheritance contracts (in these cases, the rash period also begins only upon receipt of mail from the probate court).

b) After the disclaimer of an heir appointed with priority, provided that the address of the heir appointed by the previous disclaimer is/will be known to the court.

Provided that there was no contact with the decedent, a civil registry information may be obtained to confirm the death. An inquiry at the probate court is also possible.

The death certificate is not required for the declaration of a declaration of inheritance.

- **How does the first appointed heir learn of the accrual of an inheritance? When does the deadline for the heir to disclaim the inheritance begin?**

The first-appointed heir is only informed by the probate court if there is testamentary/ inheritance-contractual succession. In cases where intestate succession forms the basis, the first-appointed heir is not notified. In many cases, the probate court does not know the person of the first appointed heir. In these cases, the time limit also only begins with

knowledge of the accrual of the inheritance. This can be done, for example, by notification from another relative or a creditor of the estate.

- **What do I have to do to accept an inheritance?**

There are no formal or deadline requirements for the acceptance of the inheritance.

If applicable, you declare by your conduct alone that you have accepted the inheritance. Therefore, if necessary, seek legal advice on what actions you may take if you have not yet decided whether to accept the inheritance. The probate court cannot give you any information on this.

However, the inheritance is automatically deemed to have been accepted if it is not disclaimed in due time and form.

- **I may have become an heir and need information about the composition of the estate.**

As a rule, the probate court does not have any conclusive information on this. In particular, the probate court does not receive any notifications from the tax offices regarding existing assets.

If necessary, seek legal advice to find out where you can obtain the relevant information.

- **Where was the deceased buried?**

Burial is a matter for the relatives.

If no relatives are known, the burial is carried out by the Institute of Forensic Medicine. The probate court has no influence on the burial and does not commission it. The probate court is also not notified of a burial that has taken place.

- **The apartment of the deceased is sealed, the police referred me to the probate court.**

If relatives need access to the apartment in order to settle the estate and if the apartment keys are kept with the probate court, the keys can (only) be handed over to the potential heirs.

If there are several heirs, all of them must agree to the keys being handed over to one of the heirs. For this purpose, it is sufficient to submit a written declaration of consent.

An appointment must be made in advance to hand over the keys. This will clarify what further evidence must be submitted for the handover in the individual case.

- **My tenant has died - what can I do?**

You may notify the appropriate probate court in writing of your tenant's passing and inquire if there are any known heirs.

For this purpose, please be sure to submit a copy of the lease agreement as proof of your legitimate interest. Otherwise, no information can be provided to you.

If no heirs are known to the probate court, it will check whether special estate protection measures need to be taken. For this purpose, information on any existing assets of the deceased is also required. It therefore helps to speed up the proceedings if the inquiry is accompanied by information about the bank at which the deceased held the account from which the rent payments were made.

With regard to questions about what rights and obligations you now have as a landlord, please contact a member of the legal advisory professions. The probate court cannot give you any information on this.

- **I would like to purchase a house whose owner is deceased.**

Information on the proceedings can only be provided to persons who have a legitimate interest. As a prospective buyer, you unfortunately do not belong to this group of persons, so that no information about possible heirs can be provided to you.

- **I have a claim against the deceased.**

If you can prove your legitimate interest, you can obtain information about possible heirs of the deceased. Please make your request in writing only, providing proof (copy of invoice, statement of claim, contract documents).

If you want to know how to assert your claim against the heirs or the estate, you must seek legal advice. The local court is not authorized to provide legal advice.