



Email: ian.denyer@justice.gsi.gov.uk

Tel: 0207 219 4687

Email: grant.bavister@justice.gsi.gov.uk

Tel: 0207 219 2632

Fax: 0207 219 2957

GUIDANCE NOTES ON SUCCESSION TO A PEERAGE WHERE NO RIGHT TO STAND FOR ELECTION IN LORDS' BY-ELECTIONS IS SOUGHT

INTRODUCTION

1. **These notes set out the procedure to be followed by a person seeking to prove their succession to an hereditary Peerage of England, Scotland, Ireland, Great Britain, the United Kingdom of Great Britain and Ireland or the United Kingdom of Great Britain and Northern Ireland.** Heirs, legal representatives or their agents and other interested parties should follow the procedures outlined from paragraph 4 onwards.

2. It is not necessary to formally prove succession to a Peerage in order to use a title, but Peers who do not prove their succession will not be entered on the Roll (see paragraph 9 for further details). The Lord Chancellor and Secretary of State for Justice is under an obligation to satisfy himself that the claimant is the rightful successor to the Peerage in question. If a claim is not pursued on the death of the late Peer, it is likely to become progressively more difficult for each succeeding generation to produce all the relevant evidence to support a Peerage claim.

3. A Peer who has been issued with a Writ of Summons to the House of Lords will automatically be placed on the Roll of the Peerage.

MAKING A CLAIM

4. Any person wishing to prove their succession to a Peerage should contact Ian Denyer or Grant Bavister at the above address. They will be happy to consider the claim and to give general advice on the evidence that will be required. The Ministry of Justice, however, cannot give detailed genealogical advice. The onus is on the claimant to make his case for succession and it may be appropriate in some cases for claimants to consult a genealogist as well as a solicitor. Formal submission of evidence that the claimant has succeeded to the Peerage takes the form of a statutory declaration to which documents are exhibited verifying the facts. A draft form of the statutory declaration accompanies these notes.

5. The Hereditary Peerage Association (HPA) is an independent body that acts in the general interest of Hereditary Peers and the Peerage. Although the Ministry of Justice is always pleased to help applicants where possible, independent advice or assistance in the preparation of the claim may be obtained from the Honorary Secretary, 1 Fairchild House, Charlwood Street, London SW1V 2LB. Telephone: 07785 282436. Email: hpasecretary@byng.net Website: www.hereditarypeers.com.

BACKGROUND

6. The Peerage Roll has existed in various forms since the Roll kept by Garter Principal King of Arms in 1514. The earliest that survive in the custody of the House of Lords are those of 1621, 1628 and 1661. Until the 1820s, Garter's Roll was the only one officially available to the House. From 1827 to 1999, however, a sessional Roll was also prepared in the Parliament Office. Garter's Roll was discontinued in 1966 and the House relied solely on the Roll produced by the Clerk of the Parliaments. The Clerk of the Parliaments ceased work on the Roll with the passing of the House of Lords Act 1999. Since then, Crown Office have kept a list of those peers who have formally established their succession and continue to issue Writs of Summons for the 92 hereditary peers remaining in the Lords, and of course Life Peers. The Crown Office has also maintained a database of all hereditary peers entitled to a Writ of Summons immediately prior to the enactment of the House of Lords Act 1999 or who have subsequently proved their succession.

7. Since the passing of the House of Lords Act 1999 there has no longer been any automatic entitlement to a Writ of Summons to the House of Lords. As a result of this, the Clerk of the Parliaments only keeps records of those eligible for election to the group of 92 hereditary peers. It was therefore felt that to avoid records of hereditary peerages falling into disrepair a Roll of the Peerage be maintained by the Ministry of Justice. Therefore, pursuant to a Royal Warrant dated 1st June 2004 a new Roll was created, independent of the House of Lords, to ensure that as far as possible records of successions are maintained in good order.

8. Under the terms of the Warrant the Lord Chancellor has appointed a senior official as Registrar of the Peerage, charged with the duty of keeping the Roll and making all necessary entries.

9. The Warrant also requires:

(a) be entitled to any precedence attaching to their peerage;

(b) be entitled to be addressed or referred to by any title attaching to that peerage in any civil or military commission, Letters Patent or other official document.

10. It should also be noted that a child born as a result of egg, sperm or embryo donation is incapable of succeeding to a peerage held by, or transmitted through, those persons who are otherwise to be treated in law as the child's parents (see section 27 of the Family Law Reform Act 1987 and sections 27-29 of the Human Fertilisation and Embryology Act 1990).

11. Once the claim is proved the claimant's name will be entered on the Roll of the Peerage. The Roll gives basic information about the family ie. names, dates of birth, heir etc, although no addresses or telephone numbers are listed. This information will be open to public inspection on request.

THE STATUTORY DECLARATION - EVIDENCE

12. The evidence that is normally required to prove a claim to succession is set out from paragraph 13 onwards. Additional evidence may occasionally be required but will not be sought unless it is necessary to support a claim. In all cases, *original* certificates of birth etc are required. The certificates should be certified copies of entries in the register of births, marriages and deaths. The short form of birth certificate is not acceptable. Photocopies are not acceptable. The documents will not normally be returned once the claim has been decided. Paragraphs 13 to 16 are examples and are not intended to be exhaustive.

13. For the succession of a son

- a) the full birth certificate of the claimant, annexed to a statutory declaration in the standard form;
- b) the marriage certificate of the claimant's parents;
- c) the death certificate of the late Peer; and
- d) evidence (see paragraphs 16-21 below) by statutory declaration, the content of which is not prescribed, stating that the late Peer had no legitimate surviving male issue before the birth of the claimant.

14. For the succession of a brother

- a) the full birth certificate of the claimant, annexed to a declaration in the standard form;
- b) the marriage certificate of the claimant's parents;
- c) the death certificate of the late Peer; and
- d) evidence (paragraphs 16-21 below) by statutory declaration, the content of which is not prescribed, that:
 - (i) the late Peer had no legitimate male issue; and
 - (ii) there was no surviving legitimate male issue between the birth of the Peer and that of the claimant.

15. For the succession of a nephew

- a) the full birth certificate of the claimant, annexed to a declaration in the standard form;
- b) the marriage certificate of the claimant's parents;
- c) the birth certificate of the claimant's father;
- d) the death certificate of the claimant's father;
- e) the death certificate of the deceased peer; and

- f) evidence (see paragraphs 16-21 below) by statutory declaration, the content of which is not prescribed, that:
 - (i) the late Peer had no surviving legitimate male issue;
 - (ii) there was no surviving legitimate male issue between the birth of the late Peer and that of the claimant's father; and
 - (iii) the claimant's father had no surviving legitimate male issue before the birth of the claimant.

16. For collateral succession

- a) the full birth certificate of the claimant, annexed to a declaration in the standard form (see below);
- b) evidence to show that the claimant is descended from the collateral relations of the grantee, with date of creation, together with supporting documentation; and
- c) evidence to show that all male lines of descent from the first Peer senior to that of the claimant are extinct, and that no male senior to the claimant in his own line is still living, together with supporting documentation.

17. For Female succession

For Peerages that pass through the female line or their Heirs General, the general procedure at paragraphs 12 and 13 should be followed. Male issue are preferred before the female but this however, will depend upon the method, or the terms of the Letters Patent, of creation.

THE STATUTORY DECLARATION

18. The declaration must be made before a Solicitor, a Justice of the Peace or a Notary Public who must at the same time identify the exhibits produced by endorsing them:

“This is the Certificate of Birth / Marriage / Death marked ‘A’ / ‘B’ / ‘C’ referred to in the Declaration of [name of declarant] annexed hereto and declared before me on the day of [day / month / year].
[signature of witness]”

19. The statutory declaration should be made by someone well acquainted with the late Peer and his family, preferably a near relative who is not in line of succession or the family legal adviser. If the declarant is not a relative, their connection and length of their association with the family should be explained in the declaration. This should be, as far as is possible, at least since the date of the late Peer's first marriage.

20. The declaration should refer to *all* the marriages of the late Peer and to the birth of *all* issue, including female issue, and should include full names and dates.

21. Certificates of birth, marriage and death should generally be exhibited to the declaration, although they are not normally required in the case of younger sons or female issue born after the person in line of succession. In a case of collateral succession, the evidence necessary to prove that all lines of succession other than the claimant's are extinct may be found in a variety of genealogical records, which should be exhibited to the Statutory

Declaration, but in such cases we advise that you contact us to discuss before taking steps to obtain the evidence.

COMPLETED APPLICATIONS

22. Completed applications should be submitted to:

Ian Denyer MVO or Grant Bavister at:
Crown Office
Rm C2/13
House of Lords
LONDON, SW1A 0PW.

RESPONSE

23. We will aim to notify the new Peer that their name has been placed on the Roll within three months of the receipt of acceptable evidence. Claimants should be prepared for their claims to take longer to deal with if their claim is a complex one, but all claims will be dealt with as quickly as possible.