

£5,000; others will pay out if the asset itself is under £5,000, even though the rest of the estate may be considerably more.

Task 3

List those assets that are covered by the Administration of Estates (Small Payments) Act 1965.

The Government in July 2005, in a parliamentary question time, ruled out the possibility of the £5,000 threshold being raised in the near future.

1.2 Who may take out a grant?

There is a difference between who **may** be appointed or entitled to take out a grant of probate or letters of administration and who the courts will **allow** to take out the grant. The main situations where the courts will debar an applicant are as follows:

i Minors

A minor (a person under 18) cannot take out any form of grant. If the minor is one of the executors or potential administrators then, usually, the probate office (the public office which issues the grants of representation under the authority of the court) will issue a grant immediately to the adult applicants, but (in the case of a grant of probate) the minor can apply for a further grant on attaining 18.

If the minor is the only executor appointed or the only potential administrator, a grant of representation (or letters of administration with will annexed if there is a valid will) is usually made to the child's representative (for example, a parent or guardian). This continues until the minor reaches 18. The grant then terminates and the minor can then apply to be made administrator or executor in his or her own right.

ii Mental Incapacity

Where a potential personal representative is suffering from mental incapacity and cannot manage his or her own affairs, then the position is similar to a minor being appointed. The difference is that if the incapacitated person is the only executor or potential administrator then only the persons specified under Rule 35 of the *Non-Contentious Probate Rules 1987 (as amended by the Non-Contentious Probate (Amendment) Rules 1991)* (the NCPR) may apply.