



McGRATH McGRANE

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PROBATE:
THE ADMINISTRATION PROCESS
28th April 2020

PROBATE: 10 STEPS TO KICK-START THE ADMINISTRATION PROCESS

When someone passes away, their estate or assets pass to their personal representative.

In order for the next-of-kin or beneficiaries to receive their inheritance, the deceased's estate needs to be 'administered' through the Probate Office of the High Court by the personal representative (known as the Executor or Administrator).

For a personal representative, tackling the process of taking out a Grant of Probate/Letters of Administration when a loved one dies can be very daunting.

Regardless of the type of estate that has to be processed, the 10 steps outlined in this briefing will need to be addressed.



McGrath McGrane have been providing legal services since 1999.

Julie Mullan is a partner at McGrath McGrane can assist with any probate matter.

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10 STEPS TO KICK-START THE ADMINISTRATION PROCESS

1. Obtain a death certificate

Without a death certificate, the process cannot begin at all. For example, any financial institution where the loved one held accounts, have to be satisfied that the account holder has died before they will disclose the value held in the account. Also, the Probate Office won't issue a Grant of Probate/Letters of Administration unless they are satisfied the death has occurred.

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2. Find the original Will

The Will is often among the deceased's personal papers or may be with their former or current solicitor, or a family member.

3. Identify the personal representative (Executor or Administrator).

This Executor will be apparent from the terms of the Will. If there is no Will or if no Executor has been appointed or can be identified under the Will, then an Administrator has to be identified. This is governed by The Succession Act 1965 (as amended) and is usually the deceased's next of kin. Priority is given in the following order:

- the spouse or civil partner,
- child,
- parent,
- brother or sister,
- more distant relative.

4. Decide whether to appoint a Solicitor

It is up to the personal representative to decide whether to engage a solicitor to assist in carrying out the administrative work to take out a Grant of Probate/Letters of Administration or whether to engage in the 'personal application' process with the Probate Office directly.

In making this decision, the personal representative will need to consider the size of the estate, their own ability and the time they can devote to the process. If they decide to use the 'personal applicant' process, they will bear full legal responsibility for the administration process. More information (including the circumstances when the 'personal applicant' process is not suitable) can be obtained on the Courts.ie website here:

<http://www.courts.ie/courts.ie/library3.nsf/pagecurrent/F119B8741852DF7B8025810F005C1C0E?opendocument&l=en>

Engaging a solicitor will be an expense which will have to be paid from the estate. However, in practice, when a solicitor acts, their expertise can greatly speed up the whole process by assisting the personal representative in identifying all relevant assets and liabilities, dealing with financial institutions and insurance companies and advising



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on potential tax liabilities and inheritance tax liability dates. This can be a significant benefit to personal representatives, and well worth the financial expense.

5. Make sure any house/property is properly insured

This is step often forgotten. If the deceased left a house which is now empty, it is important to notify the insurer of the change of circumstances to make sure the policy remains fully valid and up to date.

6. Identify the deceased's assets

The following type of information would be needed:

- Bank or other accounts – full account/bank details in order to obtain confirmation of bank account balances as of the date of death.
- Residential or other property: a formal valuation from an Estate Agent or other valuer.
- Shareholdings: copy share certificates in order to arrange valuations.
- Identify personal property, such as car, jewellery, antiques, and so on; get valuations as necessary.
- Details of any Insurance/life policies.
- Pension details.

Joint assets:

- Identify assets in joint names.
- Check the circumstances of putting asset into joint ownership: when were they put into joint names, why and who contributed?

7. Identify any liabilities which have to be paid from the estate:

- Funeral and wake expenses, and headstone costs.
- Identify all debts or potential liabilities, including guarantees.
- Compile any outstanding utility bills, due date for insurance payments and any local property tax liabilities.
- Identify if any income tax other taxes are due (it may be necessary to obtain specific professional tax advice on this aspect).

8. Identify any beneficiaries



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It is the Will that tells you who the beneficiaries are. If there is no will, the persons who are entitled to a share of a deceased's estate is governed by the Succession Act 1965. If the deceased is survived by:

- spouse/civil partner but no children: spouse/civil partner gets entire estate;
- spouse/civil partner and children: spouse/civil partner gets two-thirds, one-third is divided equally between children (if a child has already died his/her children, if any, take a share);
- no spouse/civil partner or children: divided equally or entirely to one parent if only one survives;
- children, no spouse/civil partner: divided equally between children (as above);
- brothers and sisters only: shared equally, the children of a deceased brother or sister take the share;
- nieces and nephews only: divided equally between those surviving;
- other relatives: divided equally between nearest equal relationship;
- no relatives: the State.

9. Compile other administration information such as:

- PPS number of the deceased
- Name, address and PPS number of each beneficiary: any non-resident beneficiary must attend to obtaining a PPS number from the Department of Social Protection
- Deceased's former occupation
- Did the deceased avail of the nursing home support scheme?
- Do you have the deeds to the house? They may be needed to complete the application.
- Obtain details from all beneficiaries of any prior gifts (of more than €3,000.00) or inheritances received from any source.

10. File the application

Once all of the above has been compile, the application can be prepared to submit to the Probate Office and the Revenue Commissioners. Both applications are filed simultaneously with the Probate Office.

If you would like to discuss this process in more detail with a solicitor, please feel free to contact Julie Mullan, Partner at McGrath McGrane.