

GRANTS OF PROBATE and LETTERS OF ADMINISTRATION

Let us look at the actual Probate process when making a Will and what happens if you do not make a Will. When someone does pass on having made a Will, the Executor takes over to extract what is called a Grant of Probate or where there is no Will, the closest next-of-kin extracts what are called Letters of Administration.

Essentially the Executor usually attends a Solicitor, but does not have to do so, a personal application can be made, but most people find the process somewhat daunting.

On the basis that the Executor attends a Solicitor, that person will need the original Will of the Deceased which is usually held by the Solicitor who made the Will. The Solicitor will take details of the assets of the Deceased and write to the various Financial Institutions to find out the balance on any accounts or values of various assets as of the date of death. If a property is involved, this requires getting an Auctioneer or Valuer to carry out a valuation of the property, again at the date of death. These values are then inserted in a Revenue Affidavit called a CA24 and the Executor will then sign off on this Revenue Affidavit and also sign an Oath of Executor, swearing to the High Court that he or she will carry out the Deceased wishes as set out in the Deceased's Will.

These two documents, together with the original Will are then lodged in the Probate or Seat Office in the High Court and that office will check out all the documentation to ensure it is correct and, on the assumption that it is correct, will issue what is termed a Grant of Probate in a time frame of approximately 3 to 6 months. Sometimes the process can be speeded up or expedited if there is a property for sale and the Grant of Probate is required to complete the sale. When the Grant of Probate issues, the Solicitor can then collect all the assets in the Estate and distribute them in accordance with the Will. Practically this means sending certified copies of the Grant of Probate to the various Financial Institutions and then they will send the funds to the Solicitor who will place same in a separate account for the Estate. The Estate will then be distributed in accordance with the terms of the Will.

Where there is no Will, Letters of Administration are applied for and the procedure is quite similar and this process is dealt with by the Deceased's closest next-of-kin who completes an Affidavit stating that he or she will distribute the Estate in accordance with the Rules of Succession which we have mentioned earlier and similarly will complete a Revenue Affidavit in respect of the Deceased's assets. The only additional document in the instance of administration is that the person administering the Estate has to enter into a bond with the High Court with a penalty provision of twice the value of the Estate if they default on their obligation.

For further information please visit our website at <https://www.jgs.ie/> or call our office at 01-4540068

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