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### WHAT DOES ADMINISTRATION MEAN?

A Grant of Representation is the term used to describe the legal document that authorises a person to allow someone to look after the estate of a deceased person. The person's estate usually involves all their liabilities and assets at the date of death.

The two main forms of representation, the Grant of Probate or Letters of Administration, are necessary because when a person dies their assets are immediately frozen. To deal with the estate it is necessary to apply to the High Court Probate Office for this document which enables the person to deal with a deceased's assets.

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### DOES REPRESENTATION ALWAYS HAVE TO BE TAKEN OUT?

- No. If assets in the estate are not significant, a bank or other Financial Institution may release funds without having to produce a Grant of Administration provided you guarantee them that if someone makes a claim on the funds that they are not liable.
- Financial Institutions differ on the amount they will release without a Grant
- A person can also nominate another person who will be entitled to receive the monies on their passing. This usually applies to credit union accounts, post office accounts or assurance policies.
- If property is held jointly as joint tenants, a Grant of Administration will not be required. The Will of the Testator will have no effect; ownership will automatically pass to the surviving owner.

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### IS A SOLICITOR NECESSARY TO DEAL WITH THE APPLICATION FOR A GRANT OF PROBATE?

- It is helpful but not necessary to seek the advice of a Solicitor to

guide you through the process.

- This will give you peace of mind that the application is being handled in a manner that all legal and/or tax issues will be addressed.
- If you go ahead and take out representation, you will have sole liability for the administration of the estate together with completion of all the necessary legal documents.
- A solicitor offers you assistance in discharging your legal responsibilities associated with administering the estate.

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## WHAT PROBLEMS CAN ARISE THAT PEOPLE SHOULD BE AWARE OF?

- All the paperwork for the probate application must be completed in the exact format required by the Probate Office.
- Incomplete applications or applications which do not fully comply with the rules will be rejected. This will result in delay, extra cost and frustration.
- A return of all assets and liabilities of the deceased has to be made to Revenue by completing an Inland Revenue Affidavit. This is a complex and detailed document, which has serious implications for the person responsible.
- Once the paperwork is correctly completed and the Grant issues, that is not the end of the matter. The person responsible must then distribute the estate in accordance with the Will and/or the legal principles for the administration of an estate.
- Even what can appear a straightforward administration can have its pitfalls. For example, Mr Browne was Executor for his late brother and decided to administer the estate himself. There was no Will. He had two siblings one of whom pre-deceased his brother.

- He did not realise that the children of this sibling were entitled to share in their late parent's share of the estate until he had distributed the assets and the children had taken a claim.

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## WHEN MUST YOU INSTRUCT A SOLICITOR?

- If the person entitled is a minor, a ward of court or of unsound mind, the Probate Office will insist that the application is made with a Solicitor.
- Where there is a question over the validity of the Will or the Will has been lost.
- In some circumstances, individuals will not be permitted to take out a Grant where the beneficiaries or the deceased person were resident outside Ireland.
- The Probate Office can refuse to permit an individual to take out the Grant.

## FOR MORE INFORMATION

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