

**PROBATE APPLICATION FORM – EXECUTOR APPLYING**

**Submit only pages 1 and 2 of this form with your application**

Return address for applying firm of Solicitors:

|  |  |
| --- | --- |
| Firm: | Enter the firm name |
| Address 1: | Enter firm address line 1 |
| Address 2: | Enter firm address line 2 |
| Town: | Enter town name |
| County: | Enter County name |
| Country: | Enter Country name |
| Eir Code: | Enter Eir Code |

Name of Deceased: Enter Name of Deceased

Date of Death: Enter Date of Death

This document sets out the requirements for all applications where the Executor is applying.

WE RESERVE THE RIGHT TO RETURN ALL PAPERS IN FULL IF THE APPLICATION FAILS TO MEET THE REQUIREMENTS SET OUT ON PAGE 2. THE REJECTED APPLICATION WILL BE TREATED AS A NEW FILE WHEN RE-SUBMITTED WITH A NEW DATE OF LODGEMENT AND WILL BE SUBJECT TO THE CURRENT WAIT TIME FOR NEW APPLICATIONS.

For Further information on our requirements, see [courts.ie/taking-action/probate/solicitors-checklists/grant-of-probate](https://services.courts.ie/taking-action/probate/solicitors-checklists/grant-of-probate), the accompanying Guidance Notes, and Law Society of Ireland publication ‘Wills, Probate and Estates’.

**Certification by Firm of Solicitors with carriage of the Administration of this Estate**

[ ]  I am the Solicitor/Legal Executive/Law Clerk with responsibility for this application.

[ ]  I certify that I have read and completed the attached information guide and that all documents which are required have been furnished herein.

[ ]  I further certify that they have been duly sworn and completed in accordance with law.

Solicitors Firm: Enter Solicitor Firm
Individual overseeing application: Enter Individual overseeing application (BLOCK CAPITALS)

Email: Enter Email

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| --- |
| **For Probate Office Use Only** |
| Fee: |   | Case Officer: |

|  |  |  |  |
| --- | --- | --- | --- |
| **Documents Required in all Executor applications**: |  |  |  |
| Original Will and Codicils, Sealed & Certified Copy Will, or Probate Office Official Copy Will as appropriate. | [ ]  | Court Fees stamped on page 1 of this document. |[ ]
| Copy Will certified by Solicitor as a true copy **– one copy only.** See [here](#Guidance_9) if applying to DPR. |[ ]  Notice of Acknowledgment (Probate) Revenue Form. If deceased died prior to 5/12/2001 , we require appropriate stamped Revenue Affidavit Form ([link](https://www.revenue.ie/en/gains-gifts-and-inheritance/guide-to-completing-an-inland-revenue-affidavit/index.aspx)) and original Certificate for the High Court. |[ ]
| Original Death Certificate or if not yet available, Coroner’s Certificate **(copies are not acceptable).** |[ ]  Original Sworn Oath **(no copies required) .** See [here](#Content_6) if applying to DPR. |[ ]

PROBATE REQUIREMENTS. To be completed by individual overseeing application.

|  |  |  |  |
| --- | --- | --- | --- |
|  | For District Probate Registry applications see [here](#Guidance_9). | Solicitor to check | Office Use |
|  | I am enclosing the documents required in all Grant of Probate applications (see above). |[ ] [ ]
|  | The deceased died domiciled in the Republic of Ireland. OR - The deceased died domiciled outside of the Republic of Ireland and I have read [Guidance Note 7](#Guidance_7) and enclose an Affidavit of Law or Grant of Probate from the deceased’s country of domicile at the date of death. |[ ] [ ]
| Oath | I have reviewed precedents on the Courts website and [Guidance Note 1](#Guidance_1) and the Applicants entitlement to apply is set out correctly in Part B of the Oath.  |[ ] [ ]
|  | Oath covers all relevant names and addresses in Part A and corresponds with all other documents and I have read [Guidance Note 1.1](#Guidance_11) in this regard. |[ ] [ ]
|  | Gross Irish Estate recited in Part A of the Oath corresponds exactly with the Gross Irish Estate on ROS. |[ ] [ ]
|  | All Probate Officer's Orders – if any – have been recited by date and effect in the Oath, and all supporting documents returned by the Probate Rules Office are enclosed with the application. |[ ] [ ]
|  | All Court Orders – if any – have been recited by date and place of issue in the Oath and an attested copy of same is enclosed. |[ ] [ ]
|  | Any Renunciations lodged with this application have been properly cited by date in the Oath and marked by applicant(s) and Commissioner. |[ ] [ ]
|  | Oath correctly describes Will being proven, i.e. Original Will, Sealed & Certified Copy Will, Probate Office Official Copy Will, Exhibit XX as referred to in the Order of etc… |[ ] [ ]
|  | Jurat complies with all requirements set out in SI 95/2009 and I have read [Guidance Note 1.2](#Guidance_12) in this regard. |[ ] [ ]
| Will | The Applicant(s) and Commissioner before whom the Oath was sworn have marked the will being lodged. |[ ] [ ]
|  | The will contains a revocation clause and is not limited by jurisdiction. OR - I am enclosing the appropriate cover letter (see [Guidance note 1.3](#Guidance_13)). |[ ] [ ]
|  | I am enclosing a completed Charitable Bequest form available on the Courts website.OR - I have read [Guidance Note 6](#Guidance_6) and there are no charitable bequests in the Will. |[ ] [ ]
|  | I have read [Guidance Note 2](#Guidance_2) and do not require an Affidavit of Attesting Witness. OR - I am enclosing an Affidavit of Attesting Witness. |[ ] [ ]
|  | I have obtained and am exhibiting an Order incorporating the Map referred to in the will.I also enclose all affidavits referred to in the said Order. OR – I have read [Guidance Note 3](#Guidance_3) and do not require an Order to incorporate a Map. |[ ] [ ]
|  | I have read [Guidance Note 4](#Guidance_4) and an Affidavit of Testamentary Capacity is not required. OR – I am enclosing an Affidavit of Testamentary Capacity. |[ ] [ ]
| Fee | I have consulted the fees structure in SI No 80/2021 and the correct fee based on the Net Irish Estate at date of death has been stamped on this document. |[ ] [ ]
| Revenue Form |  I am enclosing the completed Notice of Acknowledgment (Probate) Revenue Form.OR – for deaths before the 05/12/2001, I am enclosing a copy of the correct Revenue Affidavit Form based on deceased’s date of death, stamped by Revenue together with original Revenue Certificate for the High Court |[ ] [ ]
|  | The Version of the Notice of Acknowledgment (Probate) Revenue Form submitted – if any – corresponds with the Version on ROS. |[ ] [ ]
|  | I have uploaded a legible PDF of the Will to ROS with no commas in the file name.  |[ ] [ ]
| Other | I have read [Guidance Note 8](#Guidance_8) and conducted the appropriate searches to ensure that no Grant has previously issued. |[ ] [ ]
|  | I would like a copy of a number of documents and enclose the necessary form. Link to form: [Order Form](https://courts.ie/acc/alfresco/114d1844-9ef0-491b-86ff-affd57b22d84/Probate%20Office%20Order%20Form.docx/docx/1) |[ ] [ ]

**Important Guidance Notes for Certifying your Application**

These notes are to assist you in completing the certification sheet. Please read these carefully so that your application meets all of the requirements set out. Only pages 1 and 2 of this form need be submitted with your application. The Guidance Notes are for information only.

**1. Oath of Executor – Setting out the correct title for the Applicant**

**Setting out the correct entitlement of the applicant to apply is a key component of the Oath and is the responsibility of the applicant(s) and the lodging solicitor.** While a grant of probate is probably the easiest grant of representation to obtain, nevertheless a high number of these applications are rejected due to errors in the oath.

The Oath must identify all validly appointed executors and clear off any validly appointed executors who are not applying. If the applicant is relying on a substitution clause, then the Oath must identify the instituted Executor and confirm that the substitution clause has taken effect. The applicant would need to be described as the substituted Executor.

Further information on the different types of executors and how to clear off executors can be found in the Law Society publication “Wills, Probate and Estates” Manual (7th Ed. 2022) at 7.4.41(f) to (j) and in publications such as Eamon Mongey “Probate Practice in a Nutshell”. Precedent titles may be found on the Courts website under the “Title” tab at [courts.ie/taking-action/probate/solicitors-checklists/grant-of-probate](https://services.courts.ie/taking-action/probate/solicitors-checklists/grant-of-probate).

[Back to form](#Form_1)

**1.1 Details in Part A:** The sworn Oath is the key document – it should set out all relevant facts as to title and be capable of being read on its own. We rely on the Oath alone for the details which will appear on the face of the Grant. Part A must contain:

* The name of the deceased and any variation of same, last address of the deceased **and** any former addresses referred to in the will.
* The correct date and place of death as recited on the death certificate.
* The applicant’s details, including personal address, whichmust correspond with the Revenue Form supplied.
* Gross Irish Estate, which must match the figure on the Revenue Form lodged.
* Entitlement must be set out in full in Part B of the Oath.

[Back to form](#Form_11)

**1.2 Jurat on the Sworn Oath must be fully completed.** The Jurat must be strictly in accordance with the requirements set down in SI 95/2009 – **faulty jurats are a common cause of queries by the Probate Office so care must be taken in the completion of same**. In particular the Jurat must include:

* Sworn by ... On (date)... At (Place)... Before me (a commissioner for oaths/practicing solicitor) And I know the deponent **or**
* If the deponent is not known to the commissioner, they must be identified by a named third party, who the commissioner states is known to him/her. The identifier must certify **in writing** as to their knowledge of the deponent on the oath **or**
* The deponent(s) must be identified by a document e.g., a passport or a drivers licence. The jurat must indicate the type of document **and the unique reference number of same**.
* Oaths must be current, i.e. sworn within 1 year. If more than 1 year has elapsed since the date of swearing, the Oath must be resworn.

Please follow the below link to our website to access the required precedent jurat at [here](https://services.courts.ie/docs/default-source/default-document-library/courts-documents/forms/probate/oath-of-executor-probate.docx?sfvrsn=667f782d_1).

[Back to form](#Form_12)

**1.3 No Revocation Clause or Limited by Jurisdiction**

If the will does not include a revocation clause or is limited in any way by jurisdiction, we will require a letter on headed paper from the lodging solicitor confirming whether or not the deceased left any other wills and copies of such other wills must be provided.

[Back to form](#Form_13)

2. **Affidavit of Attesting Witness** isrequired in the following circumstances: a) No or defective attestation clause, b) blind or illiterate testator – (affidavit must also confirm that the will was read over to testator), c) the will is on loose sheets – affidavit must confirm that x number of loose sheets were all present **in the room** at time of execution, d) the testators signature is weak or enfeebled – (affidavit must confirm the reason for same and that the will was read over to testator), and e) when deceased died domiciled outside of the Republic of Ireland but appears to have executed a will within this jurisdiction. Note: this list is not exhaustive, and the Probate Office may require an Affidavit of Attesting Witness in other circumstances.

**NB: The Affidavit must always cover due execution and name both subscribing witnesses.**

[Back to form](#Form_2)

**3. Order for Incorporation of Map(s) or Document(s) referred to in the will –** if the will refers to another document such as a map or a list, and the will cannot be read without reference to same,it will be necessary to incorporate such document and admit it to proof as part of the will. Application must be made to the Probate Officer for the order, through the Rules Office, before an application for a grant can proceed. Please see our website at [courts.ie/taking-action/probate/court-orders](https://services.courts.ie/taking-action/probate/court-orders) for the procedure and requirements for same. Note: if the only reference to the map or other such document is as part of a substitution clause which has not taken effect, the map or document need not be incorporated. In some circumstances, it may not be necessary to incorporate Land Registry Folios (e.g., if they are not marked by the deceased or attached to the will).

[Back to form](#Form_3)

4. **Affidavit of Testamentary Capacity** – this is required if the death certificate cites a condition that may affect testamentary capacity (such as Dementia, Alzheimer’s Disease or Cognitive Impairment) or where the deceased was a Ward of Court. If the death certificate does not state the number of years the condition applied, this office will require an affidavit in all cases where the will was executed less than 10 years prior to death. The affidavit must be sworn by the doctor who was attending the testator at the time of execution of the will. Affidavits from Solicitors will not be accepted unless no medical evidence of Testamentary Capacity can be produced, and the Solicitor is in a position to give evidence of Testamentary Capacity.

[Back to form](#Form_4)

5. **Affidavit of Plight and Condition** – this is required if there is visible damage to the will, particularly if there are visible tears or marks to the will. The affidavit should explain the damage and be sworn by the person responsible for same.

[Back to form](#Probate_requirements)

6. **Charitable Bequest Form** – this is required where there are bequests for a charitable purpose in the will. Bequests for masses require a Charitable Bequest form. No form is required in respect of bequests to Charities based outside of the Republic of Ireland.

The form must be downloaded from the Courts website [here](https://services.courts.ie/docs/default-source/default-document-library/courts-documents/forms/probate/grant-of-probate/pas3_charitable_bequest_form.pdf.pdf?sfvrsn=3a45c41c_5). A hard copy of the completed form must be lodged with the application.

[Back to form](#Probate_requirements)

**7.** **Domicile Abroad – requirements**

All applications in respect of estates where the deceased was domiciled outside of the Republic of Ireland must be made to the Probate Office in Dublin.

When a person dies domiciled outside of the jurisdiction, the application must show entitlement under both the law of domicile and Irish Law, unless a Probate Officer’s Order has been obtained to limit the application to the Immoveable estate (governed by Irish Law) or the Moveable estate (governed by the Law of the Country of Domicile). Please see our website at [courts.ie/taking-action/probate/court-orders](https://services.courts.ie/taking-action/probate/court-orders) for the procedure and requirements for same.

Entitlement under Irish Law is proven by setting out entitlement in the Oath.

Entitlement under the Law of Domicile may be proven by lodging a Sealed & Certified Copy of a Grant and Will which has issued in the Country of Domicile, or a valid Affidavit of Law. Further information, including our requirements for an Affidavit of Law, may be found here: [courts.ie/foreign-domicile-application](https://www.courts.ie/foreign-domicile-application). Note: the Copy Will and Grant must each be Sealed (i.e. impressed with a Court Seal or affixed with a Holographic Seal as appropriate) and Certified by the Probate Court in the country of domicile from where the grant issued.

[Back to form](#Form_7)

8. **Previous Grants of Representation**

Before lodging an application, a search must be conducted through the Probate Register Online to ensure that no Grant has previously issued in this estate. Link: [courts.ie/probate-register-online](https://courts.ie/probate-register-online).

The Probate Register Online contains details of Grants of Representation (i.e., Grants of Probate or Letters of Administration) which have issued in the Republic of Ireland since 1992.

For applications where the deceased died prior to 1992, a search must also be conducted through the [National Archives of Ireland](https://www.nationalarchives.ie/). Failing to ensure that no Grant has previously issued will significantly delay the issuing of a new Grant and may subject the client and other affected individuals to unnecessary costs and inconvenience.

[Back to form](#Form_8)

**9. District Probate Registries**

When applying to one of the District Probate Registries, you must include two certified copies of the will (if any) and one copy of the Oath in addition to all other requirements.

If the deceased was domiciled outside of the Republic of Ireland, the application must be made to the Probate Office in Dublin.

[Back to form](#Form_1)