



# WMH Law Corporation

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## Probate and Letter of Administration

Private Wealth Practice Series

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# What do you do when a loved one passes away?

When an individual passes away (commonly referred to as “the deceased”), his or her assets and liabilities form the estate of the deceased.

## What happens to their assets and liabilities?

Contrary to popular beliefs, the ownership of the deceased's properties and assets does not automatically get transferred to the family members. Typically, the relevant persons empowered under the law will need to make an application to Court, so that assets of the deceased could be dealt with and transferred to the beneficiaries accordingly.

## What sort of application is involved?

If the deceased died leaving a Last Will and Testament, the executor of the Will would have to make an application for a Grant of Probate. Upon obtaining the **Grant of Probate**, the executor will then deal with the estate in accordance to the contents of the Will.

If the deceased died without a Last Will and Testament (ie. intestate), the relevant individual(s) who are capable to act as administrator(s) in accordance with the Intestate Succession Act would have to make an application for a **Grant of Letters of Administration**. Thereafter, the administrators would need to pay off liabilities of the estate (if any), before distributing the remainder to the relevant beneficiaries.



**“Typically, the relevant persons empowered under the law will need to make an application to Court, so that assets of the deceased could be dealt with.”**

## **What documents do you need to provide for the application?**

- Original Will of the deceased (if applicable, for Grant of Probate only)
- Death Certificate of the deceased
- Documents relating to the assets and properties belonging to the deceased (eg. bank account statements, shares / CPD statements, title documents, vehicle ownership document etc). If the deceased owned any movable properties in his or her lifetime (eg. jewellery, watches, art, paintings, other valuables etc), such details should also be provided. This applies to both assets / properties owned by the deceased whether within or outside Singapore
- Documents relating to any liabilities of the deceased (eg. mortgage / loan documentation, unpaid credit card statements etc.)
- Details of the beneficiaries
- Caveat and Probate searches



## General procedures involved

- An ex-parte Originating Summons for Grant of Probate needs to be filed in Court together with the supporting documents mentioned above.
- If any executor(s) or administrator(s) does not wish to be involved in the administration of the estate, he or she must sign a Letter of Renunciation to renounce their rights.
- The executor(s) or administrator(s) will also need to provide an Administration Oath and Supporting Affidavit in support of the application.
- A schedule containing a list of assets and liabilities owned by the deceased must also be filed.
- The above documents are typically filed in a few stages. In the event the Court is satisfied that all the requirements have been met, the Court will then issue the relevant grant.
- For Letter of Administration, an additional step may be involved as the Court may require the administrator to provide for two sureties, especially in the event where minor beneficiaries are involved or where the estate sum is large. If the Court is satisfied with the proposed sureties, then the administrator will have to file an affidavit of justification and Administration Bond before the grant could be issued. If the administrator is not able to find sureties, an application for dispensation of sureties need to be filed instead before the grant will be issued.



### **How long does the procedure take?**

Typically, a standard procedure may take up to 3-6 months for the grant to be obtained, depending on the number of assets, time taken to ascertain the list of assets and liabilities of the deceased.

### **Can the executor or administrator file for a grant in Singapore if the deceased is a foreigner but left behind assets in Singapore?**

The answer is yes.

If the deceased died domicile in one of the Commonwealth countries and a foreign grant has been issued by that country, the executor can then make an application to reseal the foreign grant in the Singapore Courts.

If the deceased died domicile in a country which is not a Commonwealth country, then a fresh application for grant of probate / letters of administration will have to be made to the Singapore Courts. However additional documents may be required by the Court, such as an Affidavit of Foreign Law prepared by a foreign lawyer explaining the laws of succession of that particular country.





## **Can an individual make an application for grant without a lawyer?**

Yes, it is possible. However, the procedure involved in making the application can be time-consuming and tedious. Typically, most executor(s) or administrator(s) does not have the time to prepare the legal documents, consolidate the list of assets of the deceased, and attend the probate court hearing in respect of the application. In a case where the deceased's assets are unknown, the executor(s) will have to make various searches and officially write to various banks / institutions to ascertain the deceased's assets accordingly. Therefore, it is recommended to engage a lawyer to assist the executor(s) and administrator(s) in the application.



For more information on the article, or if you wish to learn more about the topics discussed, please contact:-

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