

**WILL ANNEXED APPLICATION FORM – EXECUTOR NOT 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 someone other than the Executor is proving a Will.

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.

The papers should be reviewed in full by the lodging solicitor and then resubmitted.

**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

|  |  |
| --- | --- |
| **Stamp Fees here (Cheques not acceptable)** | **For Probate Office Use Only** |
|  | **Case Officer:****Fees received (Date):** \_\_\_\_/\_\_\_/\_\_\_\_\_\_\_\_\_\_\_**Amount Paid:**  |

|  |  |  |
| --- | --- | --- |
| **Documents Required in all Will Annexed applications**: |  |  |
| Original Will and Codicils, Sealed & Certified Copy Will, or Probate Office Official Copy Will as appropriate. |[ ]  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. |[ ]
| Copy Will certified by Solicitor as a true copy **– one copy only.** See [here](#Guide_Note_12) if applying to DPR. |[ ]  Original Oath & Bond Form **(no copies required)** Oath and Bond must be sworn and executed before the same Commissioner**.** See [here](#Content_6) if applying to DPR. |[ ]
| Original Death Certificate or if not yet available, Coroner’s Certificate **(copies are not acceptable).** |[ ]  For deaths prior to 1st January 1967, Separate Bond witnessed by Commissioner before whom Oath was sworn. |[ ]
| Court Fees stamped on page 1 of this document. |[ ]   |  |

WILL ANNEXED REQUIREMENTS. To be completed by individual overseeing application.

|  |  |  |  |
| --- | --- | --- | --- |
|  | For District Probate Registry applications see [here](#Guide_Note_12). | Solicitor to check | Office Use |
|  | I am enclosing the documents required in all Will Annexed applications (see page 1). |[ ] [ ]
|  | 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 10](#Guide_Content_10) and enclose an Affidavit of Law or Grant of Representation 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](#Guide_Content1) 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 1.4](#Oath_Details) in this regard. |[ ] [ ]
|  | I have read [Guidance Note 2.1](#Guide_Content_21) and no valuation is required;OR – I have read [Guidance Note 2.1](#Guide_Content_21) and am enclosing a statement of current market value from an auctioneer in respect of the deceased’s immoveable property as set out in the Revenue form. |[ ] [ ]
|  | I have read [Guidance Note 2.2](#Guide_Content_22) and the Gross Irish Estate recited in Part A of the Oath is correct. |[ ] [ ]
|  | 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 – are cited by date and place of issue in the Oath and an attested copy of same is enclosed. |[ ] [ ]
|  | Any Renunciations or Powers of Attorney are cited by date in the Oath and marked by applicant and Commissioner. |[ ] [ ]
|  | An original or sealed & certified copy of any Grants of Representation being relied on to establish entitlement has been enclosed, and any such Grants are cited by date and place of issue in the Oath. |[ ] [ ]
|  | 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 1.5](#Guide_Content_15) in this regard. |[ ] [ ]
| Bond | I have read [Guidance Note 9](#Guide_Content_9) and the appropriate Bond has been executed and the bond has been dated, signed, sealed & delivered. |[ ] [ ]
|  | Bond is witnessed by the independent Commissioner before whom the Oath was sworn (Order 79 Rule 29 RSC) |[ ] [ ]
| 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 3](#Guide_Content_3)). |[ ] [ ]
|  | I am enclosing a completed Charitable Bequest form available on the Courts website.OR - I have read [Guidance Note 8](#Guide_Content_8) and there are no charitable bequests in the Will. |[ ] [ ]
|  | I have read [Guidance Note 4](#AAW) 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 5](#Map) and do not require an Order to incorporate a Map. |[ ] [ ]
|  | I have read [Guidance Note 6](#ATC) 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.  |[ ] [ ]
|  | I have read [Guidance Note 11](#Guide_Content_1_1) 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. For further information on our requirements, see [courts.ie/probate-will-annexed-application](https://courts.ie/probate-will-annexed-application), the accompanying Guidance Notes, and Law Society of Ireland publication ‘Wills, Probate and Estates’.

**1. Oath and Bond for Administrator with Will Annexed (Oath and Bond combo Precedent Form in SI 590/2020) – 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.** Will Annexed applications are applications to prove a will made by someone other than the executor named in the will. The applicant must either a) have a legal interest in the estate at the date of death, b) be lawfully authorised to act on behalf of someone or the estate of someone who would otherwise be entitled to prove the will, or c) be appointed by Order of Court to extract the Grant.

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**1.1 Applicant has a legal interest.**

The Oath must identify and clear off all validly appointed executors e.g., by death, renunciation, no executor having been appointed, or an appointment being void for uncertainty. Entitlement to apply is fixed at the date of death of the deceased and is set out in Order 79 Rule 5(6) of the Rules of the Superior Courts, 1983. The oath must clear off any classes of individuals who would have a priority to the applicant at the date of death. For more information, see Chapter 9 of Law Society of Ireland publication ‘Wills, Probate and Estates’. Sample titles may be found at 9.3.1.1 of that publication.

The applicant – and any individuals with priority under the will – must be correctly identified when setting out entitlement:

* If there is a substitution clause in the will which has taken effect, identify any instituted Executors, instituted Residuary Legatees and Devisees, substituted Executors, substituted Residuary Legatees and Devisees as required.
* If the residue of the estate is left in trust to a trustee, identify any Residuary Legatees and Devisees in Trust and the Beneficial Residuary Legatees and Devisees as required.
* If someone is left a life interest in the residue of the estate, identify any Residuary Legatees and Devisees for Life and any Residuary Legatees and Devisees in Remainder as required.

If, for whatever reason, the Will does not dispose of the residue of the estate, the Oath must:

1. State that the will does not dispose of the residue.
2. State why, i.e., did not therein name any Residuary Legatee and Devisee, the Residuary Legatee and Devisee predeceased, the residue clause was void for uncertainty, etc.
3. Set out entitlement as if deceased had died intestate, i.e., give their marital status at date of death, then clear off any classes of individuals with prior entitlement to the applicant, and then set out the applicant’s entitlement.

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**1.2 Applicant is lawfully authorised.**

The Oath must set out the entitlement of the person for whose benefit – or for whose estate’s benefit – the grant is to issue. The Oath must then set out the nature of the applicant’s authority to apply on behalf of the applicant. These may include:

1. Legal Personal Representative under Grant of Representation: the original Grant or a Sealed & Certified Copy must be lodged, and the Oath must cite the Grant by date and place of issue.
2. Power of Attorney: the Power of Attorney must be marked by the applicant and Commissioner and the Oath must cite same by date. The Oath must also recite the current address of the donor, as the donor must reside outside the jurisdiction.
3. Power of Attorney on foot of Probate Officer’s Order where a donor resides within this jurisdiction but is unable to act due to physical incapacity: Oath must cite the Order by date and effect.
4. Committee of a Ward of Court: the Committee Order must be recited by date and place of issue (i.e. the High Court). A copy of the Order must be included with the papers. The Order must state that the applicant has been appointed Committee of the person and of their estate. The Probate Officer may no longer issue Committee Orders. If the person entitled now lacks mental capacity to act and they are not a Ward of Court, an application may need to be made for an Order pursuant to Section 27(4) of the Succession Act 1965.
5. Renounce, Consent and Nominate: if applying pursuant to Order 79 Rule 5(12) or 5(13), the Renunciation – must in addition to all other requirements – consent to the application and nominate the applicant. The Oath must state that the renouncing party/parties consent hereto, describe the applicant as their nominee, and state the applicant’s relationship to the renouncing party
6. Guardian Orders: the Probate Officer’s Order must be cited by date and the name(s) and age(s) of the child/children in respect of whom the Order was issued must be recited.

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Further information on Probate Officer’s Orders may be found [here](https://courts.ie/probate-officerscourt-orders).

Note: the Probate Office cannot issue grants to a person appointed on foot of an Enduring Power of Attorney.

**1.3 Applicant is appointed by Order of Court**.

If the applicant has been granted liberty to apply for and extract a Grant by Order of the High Court, it is not necessary to set out entitlement as above. The applicant’s entitlement must be given as: the person appointed pursuant to Section 27(4) of the Succession Act 1965 by Order of Judge [NAME] dated the X/Y/Z. Any limitations recited in the Court Order must also be recited in the Oath.

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**1.4 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 reflecting any changes in value of immoveable estate since date of death, if required (see [Guidance Note 2.1](#Guide_Content_21) and [2.2](#Guide_Content_22)).
* Entitlement must be set out in full in Part B of the Oath.

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**1.5 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 driver’s 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 [here](https://services.courts.ie/docs/default-source/default-document-library/courts-documents/forms/probate/will-annexed/oath_of_administrator_with_will_annexed_including_bond_single8f060a56-4544-40f5-a0b9-0dc06a3f33a2.docx?sfvrsn=f2c4dc5e_1).

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**2.1. Current Market Valuation**

A valuation is required if all of the following are true: a) more than 2 years have elapsed between the deceased’s date of death and the date of lodgement of the application, b) the application requires a Bond (i.e. it is for Letters of Administration Intestate or Will Annexed), and c) the deceased left immoveable estate within this jurisdiction which is not passing by survivorship.

If these conditions apply, then a current market valuation must be provided in respect of the deceaseds immoveable property. The valuation should describe the properties in the same way that they are described in the Notice of Acknowledgment (Probate). The valuation need not be overly detailed – it should be a single page – and need not include photos, condition reports, or other superfluous details, but must provide the overall current value of the property and the share owned by the deceased.

The values for the Revenue form are the values at the date of the deceased’s death. We never require a statement of the value of property at the date of death.

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**2.2 Gross Irish Estate on Oath**

The Gross Irish Estate in Part A of the Oath must be the sum of a) the date of death value for all of the deceased’s moveable estate as given in the Revenue Form and b) either the date of death value for all immoveable estate as given in the Revenue Form if no valuation is required (see 2.1) or the current value for all immoveable estate as given in the statement of valuation.

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**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.

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4. **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.**

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**5. 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).

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6. **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.

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7. **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.

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8. **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.

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**9. The Bond**

**The Bond at Part C** must be signed, sealed and delivered before the same Independent Commissioner who administered the Oath at Part B (Order 79 Rule 29 of the Rules of the Superior Courts). If multiple parties execute the Bond, the first line must read “We, the above named applicants, are each liable…” Bonds must be dated and affixed with a red seal.

Please note that there is a specific bond precedent to be used where the deceased died before 1/6/59  [Link](https://courts.ie/acc/alfresco/4788af4d-b301-41d9-bad1-b89715c25367/Form%207%20-%20Adm%20%28I%29%20Bond%20Death%20prior%20to%2001.06.59.doc/doc/1), and a different specific bond for deaths between 1/6/59 and 31/12/66  [Link](https://courts.ie/acc/alfresco/5ab75827-2625-47ba-a417-892f43d1a026/Form%205%20-%20Adm%20%28I%29%20Bond%20Death%20between%2001.06.59%20and%2031.12.66.doc/doc/1). For all deaths after 31/12/66, the Bond as set out in SI 590 of 2020 and at Part C of the Oath/Bond form must be completed.

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**10.** **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 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 Grant must 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.

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11. **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.

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**12. 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.

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