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Succession

Ireland

1 How is the disposition of property upon death (will, joint will, agreement on succession) drawn up?

There is no automatic transfer of assets following death.

In many cases property is held jointly prior to death and that property will transfer under the principle of survivorship provided that was the intention of the joint owners.

Other than joint property passing by survivorship assets must be transferred under the terms of a written Will or on intestacy (where there is no Will). The criteria for drafting a Will are set out in the 1965 Succession Act (Part VII). The rules on intestacy (where there is no Will) are also set out in the 1965 Succession Act (Part VI).

2 Should the disposition be registered and if yes, how?

There is no requirement for a Will to be registered in this jurisdiction

3 Are there restrictions on the freedom to dispose of property upon death (e.g. reserved share)?

The 1965 Succession Act contains a number of restrictions on the disposal of assets by way of Will (Part IX Legal right of testator's spouse, civil partner and provision for children).

4 In the absence of a disposition of property upon death, who inherits and how much?

The 1965 Succession Act sets out who inherits in the absence of a will and in what proportions (see Part VI).

5 What type of authority is competent:

5.1 in matters of succession?

The issue of Grants of Probate where there is a will and the issue of Letters of Administration where there is no Will are overseen by the Dublin based Probate Office and fourteen District Probate Offices based in other geographic locations. The Probate Office and the District Probate Registries are offices of the Irish Courts Service. Grants of Probate are issued to an Executor(s) where there is a Will and to an Administrator where there is no Will.

5.2 to receive a declaration of waiver or acceptance of the succession?

These issues are dealt with outside the formal probate process as part of the administration of a deceased person's estate. Usually dealt with by a suitably qualified legal representative

5.3 to receive a declaration of waiver or acceptance of the legacy?

These issues are dealt with outside the formal probate process as part of the administration of a deceased person's estate. Usually dealt with by a suitably qualified legal representative

5.4 to receive a declaration of waiver and acceptance of a reserved share?

These issues are dealt with outside the formal probate process as part of the administration of a deceased person's estate. Usually dealt with by an suitably qualified legal representative

6 Short description of the procedure to settle a succession under national law, including the winding-up of the estate and sharing out of the assets (this includes information whether the succession procedure is initiated by a court or other competent authority on its own motion)

Other than the issue of a Grant of Probate or Letters of Administration all other matters relating to the administration of a deceased persons estate are dealt with by the Executor(s) or the Administrator(s) without any further inputs from the Probate Office or the District Probate Offices. The main function of an Executor or an Administrator is to distribute the assets of the deceased. The assets are distributed in accordance with the wishes of the deceased as set out in their Will or if there is no Will in accordance with the provisions of the 1965 Succession Act.

7 How and when does one become an heir or legatee?

The concept of heirs is not known to Irish law. The term beneficiary is used to describe a person who inherits an asset from a deceased person

8 Are the heirs liable for the deceased's debts and, if yes, under which conditions?

Debts can be payable in a deceased persons estate but the Executor(s) or Administrator(s) are not personally liable for those debts.

9 What are the documents and/or information usually required for the purposes of registration of immovable property?

There are numerous statutory provisions in place which set out the requirements for transferring immoveable property. However those provisions are not part of the probate process.

9.1 Is the appointment of an administrator mandatory or mandatory upon request? If it is mandatory or mandatory upon request, what are the steps to be taken?

Grants of Probate or Letters of Administration are only issued on request. There is no mandatory requirement to take out administration.

9.2 Who is entitled to execute the disposition upon death of the deceased and/or to administrate the estate?

If there is a Will it will normally be the Executor(s) who was appointed by the deceased in his or her Will. In an intestacy situation the person will be determined by the provisions of the 1965 Succession Act.

9.3 What powers does an administrator have?

Executors and Administrators have full powers without any court intervention to administer the estate of a deceased person. If any issues arise during the administration Executors and Administrators can apply to the High Court for appropriate orders.

10 Which documents are typically issued under national law in the course of or at the end of succession proceedings proving the status and rights of the beneficiaries? Do they have specific evidentiary effects?

In the case of a Will a Grant of Probate will be issued. In the case of an intestacy Letters of Administration will be issued. Ireland exercised its opt out for this area and is therefore not currently bound by the Regulation.

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