

Grant of Representation - What is it and when is it required?

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Grant of Representation

A Grant of Representation is a document issued by the Supreme Court which confirms the appointment of the executor/administrator and gives the executor/administrator the authority to deal with the assets of the deceased. It allows the assets of the deceased (bank accounts, managed funds, shares or real estate property) to be closed, sold or transferred into the name or names of the beneficiaries, in accordance with the Will.

A Grant of Representation can be a:

1. **Grant of Probate** - where the deceased left a valid Will;
2. **Grant of Letters of Administration** - where the deceased did not leave a valid Will;
3. **Grant of Letters of Administration with Will Annexed** - where there is a valid Will but no valid appointment of an executor - for example the named executor has died and no substitute executor was named.

When is a Grant of Representation required?

A Grant of Representation is required when there are substantial assets in the deceased person's sole name - for example, real estate, accommodation bond with an aged care facility or bank accounts or shares over a certain value (the threshold varies with each institution).

Any jointly held assets pass to the surviving owner without the need for a Grant of Representation.

Role of the Executor or Administrator

Once a Grant of Representation has been obtained, it is the role of the executor (Grant of Probate) or administrator (Grant of Letters of Administration) to:

1. close any bank accounts;
2. pay all debts, funeral and other expenses;
3. ensure any gifts of specific assets are made to the beneficiaries named in the Will;
4. sell any shares or transfer any shares to the beneficiaries in accordance with the Will;
5. sell any real estate or transfer such property to the beneficiaries in accordance with the Will;
6. finalise the tax affairs of the deceased and of the estate; and
7. distribute the remaining funds to the beneficiaries in accordance with the Will.

The administration of an estate can be complex, and some estates can take years to be finalised - for example where testamentary trusts are established under the Will for children or grandchildren of the deceased, or where a life interest in an estate asset is granted to a beneficiary. It is therefore essential that the right advice is sought from skilled legal and accounting advisors.

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