

Future of estate planning: Probate eService

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Preamble

If you are the sole executor of a will and need to apply for a Grant of Probate in Singapore to deal with the estate (i.e.: property and belongings) of someone who has passed away, you may be interested in the Probate eService, an online service launched in 2023 that simplifies the process of applying for a Grant of Probate in eligible cases. This article examines the eligibility criteria, the steps involved, and some differences between the Probate eService and the traditional probate application process.

Introduction

The Probate eService is an online service that helps executors prepare and submit the necessary probate documents to the court for a Grant of Probate. A Grant of Probate is a court order that gives you the legal right to deal with the estate of someone who has passed away, and probate documents are the papers that show the court that you have the authority and ability to handle the estate.

Currently, as of April 2023, only sole executors of a will that meet the criteria mentioned below will be able to use this eService. This means that, among other things, you are the only person named in a will to carry out the wishes of the deceased. Once logged in, the eService may also allow you to fill in some information automatically using MyInfo and Singpass (MyInfo is a service tagged to your Singpass that lets you share your personal data with government agencies), including the death information of the deceased from the Immigration and Checkpoints Authority (ICA).

Steps

The steps involved in using the Probate eService are as follows:

Step 1: Check if you are eligible to use the Probate eService: Currently, as of April 2023, to use the eService, you must be:

- a. Named sole executor of the deceased's will;
- b. Above the age of 21 (as per your birthday);
- c. Not a Muslim; and
- d. Able to ascertain that the total estimated value of the deceased's estate, which is the sum of all their assets and liabilities, is under S\$2 million.

Additionally, the will must have been executed in the presence of two witnesses, and the will must indicate that the deceased had knowledge of its contents. If you do not meet these criteria, you may need to consult a lawyer and/or file your application physically at the Service Bureau.

Step 2: Prepare the required documents for your application: You will need the physical original will of the deceased and a certified true copy of it in PDF format with a cover page. You may be able to get the deceased's information from the ICA using the eService if he/she passed away in Singapore. However, if the information is not available, then you may need to have the deceased's death certificate ready.

The type of death certificate you need depends on when the deceased passed away:

- a. If the death occurred on or after 29 May 2022, you will need a copy of the deceased's digital death certificate issued by the ICA; or
- b. If the death occurred before 29 May 2022, you will need a certified true copy of the deceased's death certificate issued by ICA. You may approach a lawyer to get the deceased's death certificate certified as a true copy.

Step 3: Ascertain the deceased's (1) Assets and (2) Debts secured by mortgage: As you will eventually need to complete a Schedule of Assets (which is a detailed list of what the deceased owned and owed), it would be prudent to begin drawing up a list of the deceased's:

- a. Assets both inside and outside of Singapore; and
- b. Debts in Singapore that are secured by mortgage. In this regard, you need to provide a list of the loans and/or debts that the deceased had in Singapore that were backed by some property or asset as a guarantee of repayment. You do not need to include debts that are not in Singapore, and you do not need to list any unsecured debts, such as credit cards or personal loans that were not backed by any asset(s).

You can still proceed with the rest of the steps even if you are unable to obtain this information at this juncture. However, this means that the Grant of Probate will only be issued to you after you have this information to complete the Schedule of Assets.

Step 4: Submit Probate Application form: You can access the eService with your Singpass and submit your application for a Grant of Probate online using the "Probate Application form". This application authorises you as the sole executor to administer the deceased's estate in accordance with the will. You can use MyInfo to auto-populate some fields using your personal information and grant access to retrieve the deceased's information from ICA's database (if applicable).

Step 5: Pay the relevant fees: You will have to pay filing fees associated with filing the probate application using QR-based, debit or credit card payment methods. As of the date of this article, a deposit of S\$400 is required, and the estimated fee for the probate application is S\$300, leaving a balance of about S\$100 for refund under normal circumstances. However, the court may impose rejection fees if your documents are incorrect or erroneous, which may reduce the amount of refund from your deposit of S\$400.

Step 6: Attend physically at the Family Justice Courts Registry for court staff to inspect the physical original will: After you have submitted your application online, you must present the physical original will for verification at the Probate Registry counter at Family Justice Courts @ Maxwell Road. As of the date of this article, the counter is open from Monday to Thursday, 9am to 530pm, and Friday from 9am to 5pm.

Step 7: Complete Administration Oath and Supporting Affidavit: After the court processes the initial documents for your application, you will need to submit:

- a. An Administration Oath by you as the sole executor, which is a solemn promise that you will administer the deceased's estate faithfully;
- b. The Schedule of Assets (as discussed above); and
- c. A Supporting Affidavit exhibiting the abovementioned.

These documents must be sworn or affirmed before a Commissioner for Oaths, which is a person authorised to witness oaths and affirmations, with fees being directly payable to them. You can then upload these supporting documents to the eService. Again, if you do not have the Schedule of Assets at this juncture, you may still proceed with the rest of the steps.

Step 8: Attend the Probate hearing (if court requires): You may have to attend a Probate hearing if there are any issues or objections raised by the court or other parties regarding your probate application. A Probate hearing is a court session where the judge will review your probate application and decide whether to grant you a Grant of Probate. The court will notify you of the date and time of the hearing if it is necessary. You should prepare for the hearing by having all your documents and evidence ready, dressing appropriately, and following the court etiquette. Finally, you should also check to confirm the venue and mode of your hearing.

Step 9: Wait for approval: The court will process your application and issue a Grant of Probate if approved, and you can check the status of your application on the eService. If you were previously unable to complete the Schedule of Assets, you will have to download an Order in Terms and show it to the relevant institutions (e.g.: Banks and/or Insurance companies) to obtain the information needed to complete the Schedule of Assets. After which, you will need to file a Supplementary Affidavit exhibiting the Schedule.

Probate eService vs Traditional Probate Application: What are the Differences?

If you are the executor named in a will and need to apply for a Grant of Probate to administer the estate, you may be wondering whether to use the Probate eService or the traditional probate application process. Here are some key differences between the two options:

	Traditional probate application	Probate eService
Eligibility	Open to any executor or executors named in the will, regardless of their religion, or the deceased's estate value.	The Probate eService is only available for sole executors who meet certain criteria, such as being above 21 years old, being a non-Muslim, and where the deceased has an estate value of ≤ S\$2 million.
Documents	Requires you and/or your lawyer to prepare the documents.	The Probate eService will assist users in preparing the required probate documents to the court, such as the Originating Summons, Statement for Probate, Schedule of Assets, Renunciation of other executors (if any), and Supporting Affidavit. Users can also auto-populate some fields using MyInfo and retrieve the deceased's death information from ICA.

Convenience	Requires you to file the documents through a lawyer or personally at the LawNet & CrimsonLogic Service Bureau.	The Probate eService allows users to submit the documents electronically without a Service Bureau.
Fees	Likely to be more expensive.	The Probate eService process (currently estimated at S\$300) is likely cheaper than the traditional process.

Conclusion

The Probate eService aims to make the probate process simpler, faster, and cheaper for eligible cases. It is envisioned that this will make it easier for executors to apply for a Grant of Probate without a lawyer.

However, this eService is only available for sole executors who meet the criteria as mentioned above. Further, this does not replace the need for legal advice or assistance in complex or contentious cases. Overall, executors should consult a qualified lawyer if they are unsure about any aspect of the probate process or their duties as an executor.

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