



Singapore
Institute of Legal Education

Probate & Succession Planning

Grants of Representation

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Brief Overview

Note

- Note that there are upcoming amendments to the legislative framework:
 - Family Justice Reform Bill
 - Upcoming amendments to the Family Justice Act and Family Justice Rules
 - The new FJR will be split into three separate volumes. Probate will be covered under the Family Justice (Probate and other matters) Rules

Types of Grants

1. **Grant of Probate (Testate)**

Authorises the Executor to administer the estate and distribute the assets in accordance with the terms of the Will / the Intestate Succession Act 1967

2. **Grant of Letters of Administration (Intestate)**

Authorises the Administrator to administer the estate and distribute assets in accordance with the Intestate Succession Act 1967

Types of Grants

3. **Grant of Letters of Administration with Will annexed**

Applicable where there is a valid will but there is a failure of executors as listed out in Section 13 Probate and Administration Act 1934 (“PAA”) or where the executor is absent as per Section 14 PAA

Types of Grants

4. Re-sealing grant of representation

Gives a foreign grant force and effect in Singapore

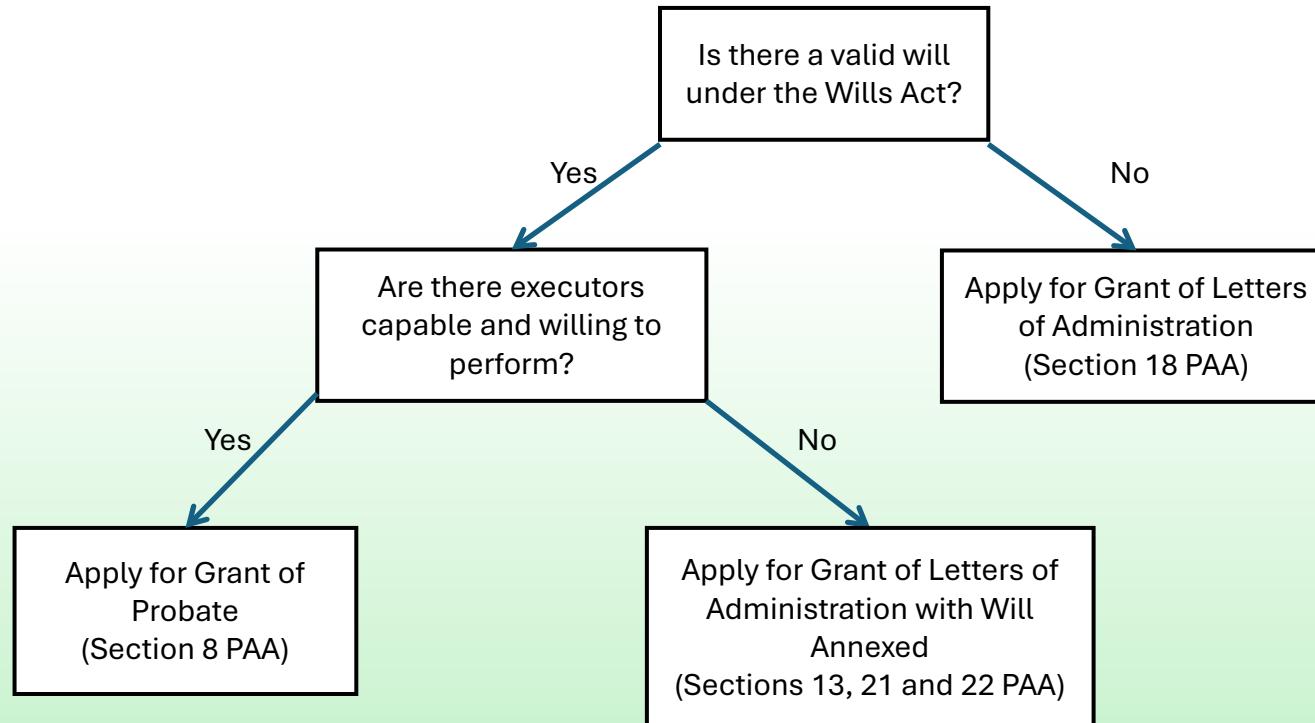
Applicable in respect of grants of representation by a Commonwealth/ Hong Kong court (see Sections 47 to 49 PAA)

Types of Grants

5. Other types of grants

- a. Letters of administration to attorney where person entitled is absent from Singapore (see Section 19 PAA)
- b. Letters of administration pending probate action (see Section 20 PAA)
- c. Letters of administration during infancy (see Section 21 PAA)
- d. Letters of administration during lunacy (see Section 22 PAA)
- e. Letters of administration limited to trust property (see Section 23 PAA)
- f. Letters of administration limited to collection and preservation of property (see Section 24 PAA)
- g. Letters of administration for estates not fully administered (see Section 25(2) PAA)

Which Grant to Apply for?



Grant of Probate

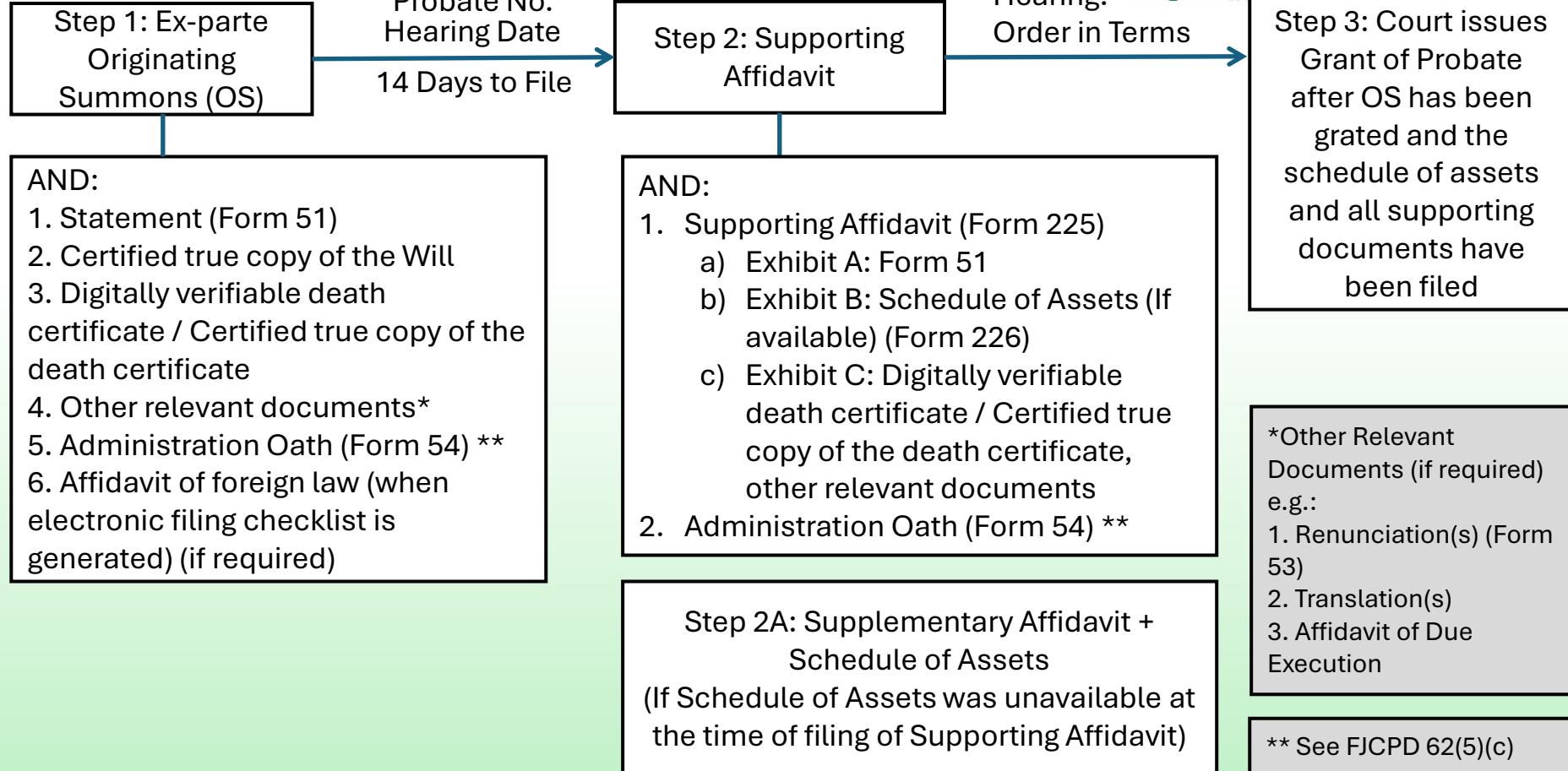
When to apply for a Grant of Probate?

1. There is a valid will under the Wills Act; AND
2. There is at least one executor appointed in the will capable and willing to execute the will

Application for Grant of Probate (Non-Muslim Estates)



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Application for Grant of Probate

Step 1: Originating Summons

1. Which Court to apply to?

- a. See Family Justice (Family Proceedings before Family Division of High Court) Order 2014
- b. Estate exceeds S\$5 million in value: Family Division of the High Court
- c. Estate is less than S\$5 million in value: Family Justice Courts

2. General procedure can be found at:

- a. Rule 208 of FJR
- b. Part XII of FJCPD

Application for Grant of Probate

Step 1: Originating Summons

3. **Documents to be filed**

- a. Ex parte Originating Summons
- b. Statement (R 208 FJR/ FJCPD 62(1)/ Form 51)
- c. Certified true copy of the Will (FJCPD 62(4)(c))
- d. Digitally verifiable death certificate / certified true copy of death certificate (FJCPD 64)
- e. Administration Oath (Form 54) (Note: to see FJCPD 62(5)(c))

If required:

- a. Other relevant documents:
 - i. Renunciation(s) (Sections 3 and 5 PAA/ Form 53)
 - ii. Translation(s) (R 953 FJR)
 - iii. Affidavit of due execution (R 211 and 215 FJR)
- b. Affidavit of foreign law (when electronic filing checklist is generated) (R 218 FJR/ FJCPD 65)

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

Case No.: FC/P [REDACTED]

In the matter of the Probate and Administration Act 1934

Filed: [REDACTED]

And

Hearing Date : [REDACTED]

In the Estate of [REDACTED]

Hearing Time : [REDACTED]

[REDACTED] deceased.

Hearing Type : Probate - Solicitor in
Attendance

Attend Before: Registrar

And



In the Matter of an Application by

[REDACTED]

...Applicant(s)

EX-PARTE ORIGINATING SUMMONS (PROBATE)

The Applicant applies for the following orders:

S/No.	Prayer
1	Probate be granted to the Applicant(s).

Application for Grant of Probate

Step 1: Originating Summons

4. Contents of Statement in Form 51

- a. Sets out the particulars and facts
 - E.g. True name of the deceased (true name is that set out in the death certificate), date of death and place of death
- b. Where necessary to describe the deceased in a grant by other name in addition to his true name, it must be stated/explained in the Statement (R 209 FJR)
- c. Also sets out other relevant information
 - E.g. Rule 208(8) FJR: Reason for delay in applying for the Grant (6 months after the deceased's death)

Application for Grant of Probate

Step 1: Originating Summons

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

Case No.: FC/P [REDACTED]

In the matter of the Probate and Administration Act 1934

Filed: [REDACTED]

and

In the Estate of [REDACTED]
[REDACTED] deceased.

and

In the Matter of an Application by
[REDACTED]

[REDACTED] ...Applicant(s)

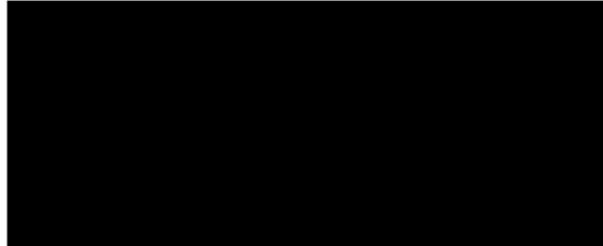
STATEMENT



(A) Particulars of Deceased :

The particulars of the Deceased are as follows:

1. Name:
2. ID Number:
3. Address:
4. Date of Death:
5. Place of Death:
6. Domicile:
7. Gender:



(B) Particulars of Applicant:

The particulars of the Applicant(s) are as follows:

1. Name:
ID Number:
Address:
Gender:



(C) General Details:

The Applicant(s) states as follows:

- 1 The paper writing filed is a certified true copy of the original last Will and Testament of the deceased.
- 2 The Applicant is the sole executrix named in the said will.
- 3 The application for a grant is filed within 6 months from the death of the deceased.

Application for Grant of Probate

Step 1: Originating Summons

5. **Certified True Copy of the Will (FJCPD 62(4)(c))**

Requirement for cover page (FJCPD 62(4)(c)):

The certified true copy of the will shall contain the certification by a solicitor “This is a certified true copy of the original Will of [name of deceased] dated [date]” on a covering page that is to be attached to the copy of the Will.

6. **Digitally verifiable death certificate / certified true copy of death certificate (FJCPD 62(4))**

- a. Where deceased was issued Digital Death Certificate/ Digital Death Extract by Registrar of Births and Deaths Singapore (FJCPD 62(4)(a)): To file the Digital Death Certificate/ Digital Death Extract (certified true copy is not required)
- b. Where Digital Death Certificate/ Digital Death Extract issued by Registrar of Births and Deaths Singapore is not available (FJCPD 62(4)(b)): To file certified true copy of death certificate or certified true copy of Order of Court for presumption of death of deceased

Application for Grant of Probate

Step 1: Originating Summons

7. **Probate and caveat search**

- a. Applicant may conduct litigation search in the record of caveats and the record of probate applications to ascertain if there are any caveats or previous probate applications in respect of the estate and to consider whether to proceed with the filing (FJCPD 62(2))
- b. Where deceased died before 15 December 2003: applicant must state in the Statement in Form 51, whether to the best of the applicant's knowledge, there are any caveats or probate applications in respect of the deceased's estate.

Application for Grant of Probate

Step 1: Originating Summons

8. Other relevant documents

- a. Renunciation(s) (Form 53) if any executor(s) wishes not to accept office
- b. Translation(s) for documents not in English (R 953 FJR):
 - i. translation of document(s) certified by a court interpreter; or
 - ii. translation of document(s) verified by affidavit of a person qualified to translate.

Application for Grant of Probate

Step 1: Originating Summons

8. Other relevant documents

- c. Affidavit of due execution:
 - i. Rule 211 FJR: Where there is no attestation clause, where the clause is insufficient or where there is doubt about the due execution of the Will
 - ii. Rule 215 FJR: Any relevant affidavits (if required by the Registrar) in the following situations:
 - (a) Rule 212: Where the signature on the will was by a blind or illiterate testator, where the Will was signed by another person directed by the testator or where there are any reasons which casts doubt as to whether the testator understood the contents of the Will
 - (b) Rule 213: Where there appears to be changes made in the Will which are not compliant with the Wills Act 1838
 - (c) Rule 214: Where there is a presumption of revocation by the testator due to the attempted destruction of the Will or due to any other circumstance

Application for Grant of Probate

Step 1: Originating Summons

9. **Affidavit of foreign law**

- a. Where evidence of the law of a country outside Singapore is required on any application for a grant (R 218 FJR)
- b. Matters to be addressed in affidavit of foreign law (FJCPD 65(2))

Application for Grant of Probate

Step 1: Originating Summons

1. After filing of relevant documents, a checklist will be generated and a provisional reference number would be given (FJCPD 62(5))
2. Original Will has to be verified at the Probate Counter by 4.30pm of the next working day after filing the Originating Summons (FJC PD 62(7))
3. If the Court accepts the Originating Summons, a Probate Number replacing the provisional reference number, and a hearing date will be issued
 - If the Court rejects the Originating Summons, make the necessary corrections

Application for Grant of Probate

Step 2: Supporting Affidavit

1. Supporting Affidavit must be filed within 14-days after filing the OS (FJCPD 63(4))
2. Contents of the Supporting Affidavit (FJCPD 63(2)/ Form 225):
 - a. Exhibit A: Statement in Form 51
 - b. Exhibit B: Schedule of Assets (If available) (Form 226)
 - c. Exhibit C: Certified true copy of the Will and death certificate or verified digital death certificate, and any other relevant documents

Application for Grant of Probate

Step 2: Supporting Affidavit

3. Schedule of Assets

If the Schedule of Assets is included in the Supporting Affidavit, then the Supporting Affidavit has to include the following averment (FJCPD 67(3)):

“The contents of the Schedule of Assets exhibited herein as (insert exhibit number) are true and accurate in every particular to the best of my knowledge and belief at this time. The deponent/s does/do not know or have any reason to believe that any of the contents of the Schedule of Assets is false at this time, The deponent/s undertake(s) to amend the Schedule of Assets if further information regarding the assets of the estate is obtained.”

Application for Grant of Probate

Step 2: Supporting Affidavit

3. Schedule of Assets

- a. Declare market value of assets as at date of death
- b. Addressing jointly held assets
- c. Accounts with zero balance
- d. Supporting affidavit also has to include the following averment (FJCPD 67(3)):

“The contents of the Schedule of Assets exhibited herein as (insert exhibit number) are true and accurate in every particular to the best of my knowledge and belief at this time. The deponent/s does/do not know or have any reason to believe that any of the contents of the Schedule of Assets is false at this time, The deponent/s undertake(s) to amend the Schedule of Assets if further information regarding the assets of the estate is obtained.”

Application for Grant of Probate

Step 2: Supporting Affidavit

Note – in practice:

- Market value may be ascertained around the time of the Deceased's death (e.g., through bank statements)
- For jointly held assets – by right, subject to right of survivorship and not included in schedule of assets unless argued otherwise.
- Bank accounts with zero balance can be interested, but the Court is likely to query why they are included in the schedule. Reasons should be provided (e.g., to close the accounts).

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

Case No.: [REDACTED]

In the matter of the Probate and Administration Act (Cap.251)

Filed: [REDACTED]

And

In the Estate of [REDACTED], deceased.

And

In the Matter of an Application by



...Applicant(s)

B. Outstanding Debts in Singapore which are Secured by Mortgage (For immovable properties only)

S/No.	Description	Amount (SS)
1.	[REDACTED]	[REDACTED]
Net Estate Value		[REDACTED]

C. Deceased's Property Outside Singapore (For deceased person domiciled in Singapore at date of death)

S/No.	Description	Market Value as at Date of Death (SS)
1.	[REDACTED]	[REDACTED]

SCHEDULE OF ASSETS

A. Deceased's Property in Singapore

S/No.	Deceased Property Description	Market Value as at Date of Death (SS) (without deducting the debts due or owing from the deceased)
1.	[REDACTED]	[REDACTED]
2.	[REDACTED]	[REDACTED]
3.	[REDACTED]	[REDACTED]
4.	[REDACTED]	[REDACTED]
5.	[REDACTED]	[REDACTED]
Gross Value		[REDACTED]

Application for Grant of Probate

Step 2: Supporting Affidavit

4. Administration Oath (Form 54)

- a. Section 28 PAA
- b. May be filed at the same time as the supporting affidavit if not filed with Originating Summons (FJCPD 62(5)(c))

Application for Grant of Probate

Step 2A: Supplementary Affidavit

1. Applicable where the Schedule of Assets was not filed together with the Supporting Affidavit
 - a. Why? Because applicant(s) unable to ascertain full extent of deceased's assets
 - b. Application is made without the filing of the Schedule of Assets with the Supporting Affidavit because banks generally require a sealed copy of the Originating Summons before disclosing information about the deceased's assets
2. The Schedule of Assets can be filed later and exhibited to the Schedule of Assets – Supplementary Affidavit (FJCPD 67(4))

Application for Grant of Probate

Step 3: Grant Issued

Court will issue the Grant of Probate automatically after the Originating Summons has been granted and the Schedule of Assets and all supporting documents have been filed

Steps After a Grant of Probate

After the Court has issued a digital copy of the Grant of Probate the executor(s) can now distribute the deceased's assets in accordance to the Will

NOTE : An printed Grant if required (e.g. where a foreign court requires a printed grant for resealing or if some banks require) must be applied for when filing in the Originating Summons

Letters of Administration

When to apply for Letters of Administration

1. There is no Will (Intestate)
2. The Will is invalid
3. Where there is no executor

Application for Letters of Administration/ with Will Annexed (Non-Muslim Estates)



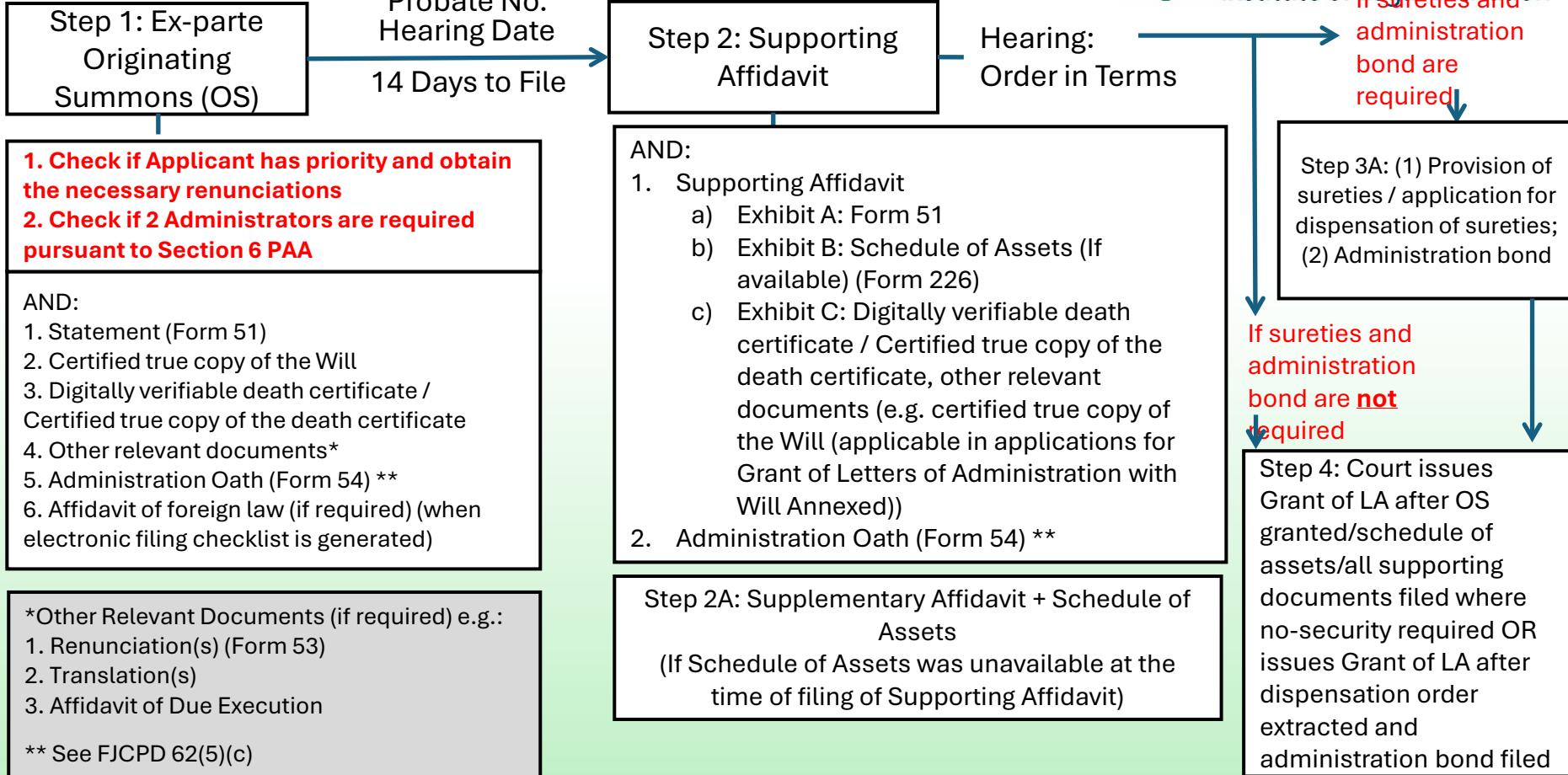
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If sureties and

administration

bond are

required



Application for Letters of Administration

Step 1: Originating Summons

1. Who can apply for a Grant of Letters of Administration?
 - a. See Section 18 PAA
 - b. *Toh Seok Kheng v Huang Huiqun* [2011] 1 SLR 737 at [23]: "...the starting point is that the person who is most suitable among the beneficiaries to be the administrator is determined according to the priorities of entitlement to the deceased's estate ***under the laws of intestate succession.***"
 - c. See Section 7 of the Intestate Succession Act 1967

Application for Letters of Administration

Step 1: Originating Summons

2. If there is a Will (i.e., grant of letter of administration with will annexed) See Section 13(2) PAA instead
 - a. Universal or residuary legatee
 - b. Legal representative of a deceased universal or residuary legatee
 - c. Beneficiaries under the Will who would have been entitled to a grant if deceased died intestate
 - d. Legatee with beneficial interest
 - e. Creditor

Application for Letters of Administration

Step 1: Originating Summons

3. Clearing off priority – express renunciations vs constructive renunciations (see Sections 3 to 5 PAA)
 - a. If the applicant does not have priority, obtain renunciations from all parties above the applicant in priority (see Section 3(2)(b) PAA, R 233(5) FJR and Form 53)
 - b. It is not necessary to obtain renunciations from parties within the same class of priority (see *Tan Hui Cheng Lily, deceased* [1993] SGHC 106)
 - c. If it is not possible to obtain express renunciations, commence citation proceedings (R 243 and 244 FJR and Form 60)

Application for Letters of Administration

Step 1: Originating Summons

4. Number of administrators required (Section 6 PAA)
 - a. Check whether there is a minority or if a life interest arises under a Will
 - b. If so, letters of administration shall be granted either to:
 - i. A trust corporation, with or without an individual; or
 - ii. To not less than 2 individuals

Application for Letters of Administration

Step 1: Originating Summons

5. Key differences in documents filed in an application for grant of probate vs an application for grant of letters of administration
 - a. Matters to be addressed in affidavit of foreign law (if required) differ (FJCPD 65(3))
 - b. Statement (Form 51) for grant of letters of administration has to contain, *inter alia*:
 - i. Deceased's nationality, religion, and marital status;
 - ii. Relationship between the deceased and the applicant(s) (Note that there are specific descriptions provided under Form 51 to be used);
 - iii. Particulars of beneficiaries;
 - iv. Identification of beneficiaries who lack mental capacity within the meaning of the Mental Capacity Act;
 - v. Particulars of spouse and other next-of-kin who are deceased;
 - vi. Particulars of person(s) with prior/ equal rights;
 - vii. Particulars of Minor(s);
 - viii. Particulars of Co-Administrator(s).

Application for Letters of Administration

Step 2: Supporting Affidavit

Same as the application for a Grant of Probate.

Application for Letters of Administration

Step 2A: Supplementary Affidavit

Same as the application for a Grant of Probate.

Application for Letters of Administration

Step 3: Sureties and Administration Bond

1. After the Supporting Affidavit and Supplementary Affidavit (if applicable) are filed, the Court will issue an Order in Terms if the documents filed are in order
2. In the following instances, the Court will then require security (an Administration Bond (Form 55) and 2 Sureties) (see Section 29 PAA, R 236 FJR, FJC PD 68):
 - a. Gross value of estate exceeds S\$5 million
 - b. There is a minority interest in the estate
 - c. There is a life interest in the estate
 - d. There is a beneficiary lacking capacity
 - e. Grantee is a creditor
 - f. Such other cases as the Registrar thinks fit

Application for Letters of Administration

Step 3: Sureties and Administration Bond

3. However:

- a. Where the Public Trustee has obtained a grant of letters of administration, he shall not be required to give security (Section 29(4) PAA).
- b. When the administrator is entitled to the whole of the estate after payment of the debts, sureties in the bond may ordinarily be dispensed with (Section 29(5) PAA).

Application for Letters of Administration

Step 3A: Dispensation of Sureties

1. Court may vary amount of the bond or vary the number of sureties or dispense with sureties to the bond (Section 29(3) PAA)
2. FJC PD 69:
 - a. Application to dispense the sureties is made by summons supported by an affidavit given by the administrators and any co-administrators
 - b. Contents of supporting affidavit (FJC PD69(1))
 - c. Consent in writing of all adult beneficiaries required (FJC PD 69(4))

Application for Letters of Administration

Step 3A: Dispensation of Sureties

3. After the Court has granted the application for dispensation of sureties, proceed to file the Administration Bond and extract the Order of Court
4. The Administration Bond has to be signed jointly by administrators (Form 55) (see also *Tacplas Property Services Ltd v Lee Peter Michael* [2000] 1 SLR(R) 159

ADMINISTRATION BOND

WE (I)

of

of

of , and

of

are **jointly and severally** bound unto the Registrar of the Family Justice Courts, in the sum of Dollars (\$) to be paid to the said Registrar for which payment we (I) bind ourselves (myself) and each of us our (my) heirs, executors and administrators sealed with our (my) seals this [date].

THE CONDITION of this obligation is that if the abovenamed the Administrator of the Estate and Effects of late of deceased who died on the day of 20 , do administer according to law the movable and immovable property of the said deceased which has or shall come to hands, possession or knowledge or into the hands and possession of any other person for then this obligation to be void and of no effect but otherwise to remain in full force and effect.

Application for Letters of Administration

Step 4: Court issues Grant of letters of administration

1. Where security is not required, court issues Grant of Letters of Administration automatically if the Originating Summons has been granted and the schedule of assets and all supporting documents have been filed
2. Where security is required, court issues Grant of Letters of Administration automatically after the order for dispensation of sureties has been extracted and the administration bond has been filed in court
3. The Administrator would administer the estate and distribute the assets in accordance with the Will/ Intestate Succession Act 1967
4. NOTE : A printed Grant if required must be applied for when filing the Originating Summons

Resealing of grant of representation

When to apply for re-sealing of grant of representation

1. Applicable in respect of grants of representation by a Commonwealth/ Hong Kong court (see Sections 47 to 49 PAA)
2. Domicile of deceased (see Section 47(4) PAA):
If it appears that the deceased was not, at the time of his death, domiciled within the jurisdiction of the court from which the grant was issued, the seal shall not be affixed unless the grant is such as the General Division of the High Court would have made.
3. Upon re-sealing, the foreign grant shall be of the like force and effect, and have the same operation in Singapore, as if granted by the General Division of the High Court to the person by whom or on whose behalf the application for sealing was made (Section 47(2) PAA)

Application for Re-sealing

Step 1: Originating Summons

1. Which Court to apply to?

- a. See Family Justice (Family Proceedings before Family Division of High Court) Order 2014

2. Documents to be filed together with Originating Summons

- a. Statement (Form 51);
- b. Administration Oath (see FJCPD 62(5)(c)); and
- c. Either:
 - i. sealed certified true copy of the foreign grant; or
 - ii. where the foreign grant is issued by the foreign court in an electronic format, the digitally verifiable sealed foreign grant downloaded from the foreign court's website with the certification by a solicitor "The undersigned has verified that this document is the electronic sealed foreign grant downloaded from [state the foreign court's website] and the authenticity of this document."

Application for Re-sealing

Step 1: Originating Summons

3. **Statement (Form 51) for grant of letters of administration has to contain, *inter alia*:**
- a. Deceased's domicile;
 - b. Deceased's marital status;
 - c. Filing capacity of the applicant(s);
 - d. Particulars of foreign grant and original grantee(s);
 - e. Whether the deceased [did not reside or did not carry][resided or carried] on business in Singapore within 12 months prior to [his / her] death;
 - f. Whether the applicant(s) are aware that there are [or no] debts from the estate of the deceased to creditors residing in Singapore;
 - g. Description of properties in Singapore that the deceased died possessed

Application for Letters of Administration

Step 1: Originating Summons

1. After filing of relevant documents, a checklist will be generated and a provisional reference number would be given (FJCPD 62(5))
2. Original foreign grant or sealed certified true copy of the foreign grant (if any) has to be verified at the Probate Counter by 4.30pm of the next working day after filing the Originating Summons (FJC PD 62(7))
3. If the Court accepts the Originating Summons, a Probate Number replacing the provisional reference number, and a hearing date will be issued
 - If the Court rejects the Originating Summons, make the necessary corrections

Application for Letters of Administration

Step 2: Supporting Affidavit

Same as the application for a Grant of Probate.

Application for Letters of Administration

Step 2A: Supplementary Affidavit

Same as the application for a Grant of Probate.

Application for Letters of Administration

Step 3: Sureties and Administration Bond

- After the Supporting Affidavit and Supplementary Affidavit (if applicable) are filed, the Court will issue an Order in Terms if the documents filed are in order
- If the Court requires an Administration Bond and 2 Sureties, consider application for dispensation of Sureties (see Section 49 PAA)

Application for Letters of Administration

Step 3A: Dispensation of Sureties

Same as in applications for letters of administration where sureties and an administration bond are required.

Application for Letters of Administration

Step 4: Court issues Memorandum of Resealing

1. Where security is not required, court issues Memorandum of Resealing and Notice of Resealing automatically if the Originating Summons has been granted and the schedule of assets and all supporting documents have been filed
2. Where security is required, court issues Memorandum of Resealing and Notice of Resealing automatically after the order for dispensation of sureties has been extracted and the administration bond has been filed in court
3. The Executor/ Administrator would administer the estate and distribute the assets in accordance with the laws applicable to the distribution of the estate

Other Matters

Amendment of Schedule of Assets

Amendment of Schedule of Assets (FJC PD 67(5)):

1. Applicant may file an amended schedule of assets without permission of the court
2. Applicant is to file the amended schedule of assets with a supplementary affidavit under document title “Schedule of Assets – Supplementary Affidavit”. The supplementary affidavit is to:
 - a. State the amendment to be made to the schedule of assets
 - b. Provide reasons for the amendment(s)
 - c. Include the standard averment in FJCPD 67(3); and
 - d. Exhibit a clean version of the amended schedule of assets electronic form as generated according to the eLitigation filing system

Thank You!

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