



Citizens **Information** Board
information · advice · advocacy

Bereavement

*Information for those
affected by bereavement*

Preface

This is the fourth edition of this guide published by the Citizens Information Board. The Board is the national agency responsible for supporting the provision of information, advice and advocacy to members of the public on a wide range of public and social services.

It does this through the Citizens Information website, **citizensinformation.ie**, the voluntary network of Citizens Information Services and the Citizens Information Phone Service (Lo-call 1890 777 121). It also funds and supports the Money Advice and Budgeting Service (MABS) and provides advocacy services for people with disabilities.

This booklet provides information on dealing with the practical and material matters that arise following a death and it is intended as a guide for people who have been recently bereaved, for those supporting people who have been bereaved, and for information providers generally.

It contains general information on what to do immediately after a death and the taxation, legal and financial issues that may arise, including social welfare payments. It does not provide detailed information on all these matters but does provide information about where to go for further information and support.

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Introduction

It is always difficult to deal with the death of a person close to you. As well as the emotional issues arising, a number of practical matters have to be dealt with – some immediately and some at a later stage. This booklet is designed to help you deal with the practical problems which arise when someone dies. It provides information about the immediate things that must be done, for example, arranging the funeral, getting access to money so that bills can be paid, and registering the death. It also gives information on other immediate matters that may sometimes arise, for example, organ donation, post mortems and inquests. There are other issues to consider if the deceased died as a result of a crime.

After the funeral, there are practical matters that you may need to deal with. For example, you may need to deal with the deceased person's property and money. The law in respect of wills, succession and inheritance can be complex at times, but we try to explain it here with as little jargon as possible. There are, however, some legal words which you need to know in order to understand what has to be done and these are explained.

You may need to sort out the tax affairs of the deceased person and, if you are a spouse or civil partner, your own tax situation may be changed as a result of the death. You may need to find out about the deceased person's pension arrangements and you may need to apply for certain social welfare benefits; the range of benefits available is outlined. There are detailed conditions attached to each benefit. We do not describe all the details here but we do tell you where to apply and where to get further information.

This booklet should help you to deal with the main practical problems which arise and direct you to more detailed information sources should you need them. You can get help and information on all these matters from your local Citizens Information Service.

Note on civil partners and cohabitants

This is the fourth edition of this booklet. The information in it was compiled in early 2011.

The main change since the previous edition is the introduction of rights for civil partners and certain cohabitants (partners who are living together but are not married or in a civil partnership). The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 came into effect on 1 January 2011. Related changes in social welfare also came into effect from January 2011. It is intended that related changes in taxation will apply from 1 January 2011 but the necessary legislation had not been passed at the time this edition was printed. In general, civil partners now have the same legal rights as married couples in areas such as social welfare and inheritance and it is expected that they will have the same rights in taxation. However, there are some differences between the rights of married couples and civil partners and these are mentioned where relevant. The changes do not affect the rights of children nor do they establish any legal relationship between children and the civil partner of one of the parents.

The rights of cohabitants differ from those of married couples and civil partners in some areas:

- » In the social welfare system, cohabitants are treated in the same way as married couples and civil partners.
- » In the tax system, cohabitants are treated as single people.

- » Cohabitants do not have any rights to inherit. However, certain financially dependent cohabitants now do have the right to ask the court that provision be made for them from a deceased cohabitant's estate.

Citizens Information

Citizens Information Services (CISs) provide free, confidential and impartial information on all aspects of rights and entitlements. There is a nationwide network of 42 CISs delivering information at over 200 locations throughout the country. Each CIS is an independent organisation but all are supported by the Citizens Information Board, an independent public service body which promotes and supports the delivery of information, advice and advocacy on social and civil services to the public. You can find details of your local CIS at **citizensinformation.ie**.

Information may also be accessed through the Citizens Information Phone Service by telephone on (021) 452 1609 or Lo-call 1890 777 121, or by email to information@citizensinformation.ie. This service is available from Monday to Friday, 9am to 9pm.

Online information is provided on the Citizens Information website, **citizensinformation.ie**, which gives detailed information on all public services including those covered in this booklet.

Feedback

Your comments and suggestions on the booklet are always very welcome. There is a feedback form at the back of this booklet and you can send feedback and comments to:

Information Resources
Citizens Information Board
George's Quay House
43 Townsend Street
Dublin 2
Tel: (01) 605 9000
Email: publicationsfeedback@ciboard.ie

Words and phrases you may need to know

PPS (Personal Public Service) Number

This is your unique reference number for all dealings with the public service, including social welfare, tax, education and health services.

Pay Related Social Insurance (PRSI) is the payment made by employees and their employers and by self-employed people to the Department of Social Protection. It gives entitlement to various benefits that are based on your PRSI contributions. These are known as contributory payments.

The **estate** or the **assets** are the terms used to describe all the deceased person's belongings. This includes property, money and personal belongings; in fact everything that has to be distributed after the death.

A **testator** is a person who makes a will.

A person who dies and has made a valid will is said to have died **testate**. If you die testate then your property and money are distributed in accordance with the terms of your will but there are certain limitations which are set out in legislation. In particular, a spouse or civil partner may be entitled to a *legal right share*.

A person who dies without having made a will is said to have died **intestate**; in this case the person's property and money is distributed in accordance with the law.

Legal right share: if there is a will and the spouse or civil partner has never renounced his/her rights, for example in divorce proceedings, and is not *unworthy to succeed*, then he/she is entitled to a certain amount, called a legal right share, of the deceased's estate.

Being *unworthy to succeed* is relatively rare, but may arise, for example, where a spouse had deserted the deceased person for at least two years before the death.

An **executor** is a person named in a will who has the job of implementing the terms of the will. There may be more than one executor. The executor may be a person who benefits, a *beneficiary*, under the will. (A witness may not be a beneficiary.)

An **administrator** is a person who administers the will if no executors have been appointed or who administers the estate if there is no will.

The **personal representative** of the deceased is either the executor or the administrator.

A **legacy** (or bequest) is a gift made in a will.

Probate is the process by which a will is put into effect. This process is explained on page 59.

Frequently asked questions

This section provides brief answers to the immediate questions you may have. Please look at the pages referred to for more detailed answers.

Q. Who has to register the death?

A. A *qualified informant* must register the death. Generally this is a family member or a person who was present at the death. The death must be registered within three months. See page 15.

Q: What details are required to register a death?

A: You need to know the date and place of the death and the full name and surname of the deceased, the deceased's gender, marital status, age or date of birth and the deceased's occupation (or that of the spouse or parent). You must also have a Medical Certificate of the cause of death. See page 14.

Q. Where can I get a Death Certificate?

A. The Death Certificate is issued by the Registrar of Births, Deaths and Marriages. You are usually able to get a Death Certificate immediately when you register the death.

Q: Where are deaths registered?

A: A death may be registered at any office of the Registrar.
See page 14.

Q. What is a post mortem?

A. A post mortem (sometimes called an autopsy) is an examination carried out by a pathologist after a death where it is necessary to establish the medical cause of death. The majority of deaths do not

require any post mortem because the medical cause of death can be certified by a doctor who has been treating the deceased in the months before the death.

Q. Is there any help available towards the funeral costs?

- A. You may be entitled to a Bereavement Grant from the Department of Social Protection – see page 29.

If you are unable to pay the funeral costs, you may get help under the Supplementary Welfare Allowance scheme – see page 44.

Q. If there is money in a joint account can I draw out this money?

- A. Yes, if the money is held jointly with your spouse. Otherwise you may have to await the Grant of Probate – see page 23. If the amount of money is small, the financial institution may release it in certain circumstances.

If the money is in a credit union, you may be the nominated beneficiary of a certain amount of it and so may be able to access it immediately – see page 24.

Q. Can I cash Social Welfare cheques or pension orders after death?

- A. You can cash any orders made out to you personally but you may not cash any orders in the name of the deceased. In the case of a pension, return the deceased person's pension book or cheque to the Department of Social Protection as soon as possible. You should include a note about the death and the Death Certificate or Death Notice from the newspapers. (Keep a note of the pension claim number.) If the deceased person's Social Welfare payment was paid into a bank account by electronic transfer you should advise the relevant section of the Department to stop the payment.

In most cases the deceased person's social welfare payment is payable for six weeks after death if you were the spouse, civil partner or cohabitant of the deceased (a cohabitant is a partner you are living with that you have not married or entered into a civil partnership with) – see page 32.

Q. Is there a pension for widows/widowers and surviving civil partners?

- A. Yes. Social welfare pensions are available to people who have lost a spouse or civil partner. The Widow's, Widower's or Surviving Civil Partner's Contributory Pension is based on the social insurance contributions of you or your late spouse or civil partner. However, both social insurance records cannot be combined – see page 35. Most widowed people and surviving civil partners qualify for this payment. If you do not, you may be eligible for the Widow's, Widower's or Surviving Civil Partner's Non-Contributory Pension which is means tested – see page 36. If you have dependent children, you may be eligible for the One-Parent Family Payment – see page 36.

Q. Are there other social welfare payments or schemes for bereaved people?

- A. There are a number of payments and schemes which may be relevant to you – see page 40.

Q. The deceased had a medical card – what should I do with it?

- A. You should return it to the Health Service Executive (HSE) office that issued it. If you are the spouse or civil partner of a medical card holder, you may be entitled to a card in your own right – see page 44 for more information on medical cards.

Q. Who deals with the will?

A. Generally, a personal representative is named in a will as executor and has the job of dealing with the terms of the will and taking out probate to certify that the will is in order. There may be more than one executor. If no executor has been appointed, or if the named executor does not wish to act, an administrator may be appointed – see page 55.

Q. What is the procedure if the deceased didn't make a will?

A. If there is no will the family can apply to the Probate Office for a *Grant of Administration* in order to appoint an administrator – see page 60.

Q. How do I take out a Grant of Probate?

A. If you are the executor or have been appointed an administrator, you can make a personal application to the Probate Office, or one of the District Probate Offices, for a Grant of Probate to allow you to proceed to distribute the estate – see page 61.

Q. What are your rights as a spouse where there is a will?

A. If there is a will, the spouse is entitled at a minimum to what is called the *legal right share*. This is half of the estate where there are no children and one-third where there are children – see page 56.

Q. What are your rights as a spouse where there is no will?

A. If there is no will, then

- » Where there are no children, the spouse is entitled to the entire estate.
- » Where there are children, the spouse is entitled to two-thirds and one-third is divided equally between the children (if a child has already died, his/her children take a share) – see page 56.

Q. What are your rights as a civil partner?

- A. Civil partners have the same legal right to inherit as spouses and the same rights on intestacy. However if children of the deceased apply for a court order to ensure that they are provided for from the estate, such an order cannot reduce the entitlement of a spouse to a legal right share but it can reduce the entitlement of a civil partner.

Q. What happens to the family home after the death of a spouse or civil partner?

- A. If you and your spouse or civil partner jointly own the house, then you automatically become the owner. If your spouse or civil partner was the legal owner then you may require that it be given to you as part of your legal right share – see page 62.

Q. Will I have to pay inheritance tax?

- A. You do not have to pay any inheritance tax if you get an inheritance from your spouse. It is expected that inheritances from a civil partner will also be tax free from 1 January 2011 but the necessary legislation had not been passed at the time of publication. For other inheritances, you may have to pay tax if the amount is above certain limits. These limits depend on the relationship between you and the deceased – see page 51.

The family home is exempt from inheritance tax where the person who inherits it has lived there for at least the previous three years and meets other conditions – see page 53.

Chapter 1

Issues that may arise immediately after a death

Funeral arrangements

Funeral arrangements are usually made by the immediate family of the deceased. The deceased may have left specific instructions about where to be buried or to be cremated and what form the funeral service should take. Most people respect the deceased's wishes where possible.

If there is any dispute about who is entitled to make the arrangements or about the precise arrangements, the *personal representatives* are entitled to make the decisions. The personal representatives of the deceased are the *executors* (see page 55) of the will if there is a will or the people entitled to administer the estate if there is no will. The people entitled to administer the estate in the absence of a will are immediate family members. The order of priority is described on page 60.

You may engage an undertaker or funeral director to deal with most aspects of the funeral. The Irish Association of Funeral Directors (see page 72) has drawn up a code of practice that explains what you can expect from any one of its members.

Usually, the undertaker or funeral director makes the arrangements for providing a coffin, getting a grave, putting death notices in the papers or sending them to local radio stations. You may make the religious service arrangements directly with the church or the undertaker may do that for you.

Where the death took place

In hospital

The majority of deaths occur in hospital and the hospital staff arrange for the laying out of the body and provide a Medical Certificate of the cause of death. Most hospitals have mortuaries where the body of the deceased may be held until the funeral arrangements are made. You may decide to take the body home or have the remains brought to a funeral home.

At home

If a death occurs at home following an illness, contact the doctor who attended to the deceased in order to get a Medical Certificate of the cause of death. If the death is sudden or unexpected, the Medical Certificate is issued by the Coroner (see page 20).

You may arrange to have the body laid out at home or brought to a funeral home. You may also need to decide whether or not to have the body embalmed – the undertaker or funeral director can advise you on whether or not this is necessary.

Death abroad

Every country has its own rules about the formalities to be followed when a person dies. Irish embassies and consulates provide help in connection with the deaths of Irish citizens abroad and with arrangements for the return of the remains to Ireland. A list of Irish embassies and consulates is available at **dfa.ie**. If there is no Irish embassy or consulate in the country in question, you may be able to get help from the embassy of any other EU (European Union) member state. An undertaker here in Ireland should be able to help you deal with the formalities and arrangements required.

Donating organs

Organ donation is possible only if the deceased died in hospital and immediate decisions are taken. If the deceased was carrying an organ donor card and died in hospital, the hospital contacts the person named as next of kin before arranging the removal of organs for transplantation. It is usual to get the family's consent for this but it is not clear that this is essential. If the deceased was not carrying an organ donor card or was too young to have one, the family may be asked to agree to organ donation. You can get further information from the Irish Kidney Association, see page 65.

Registering the death

The death may be registered at any Registrar of Births, Deaths and Marriages office. There are Registrars of Deaths in every county. For details of your nearest Registrar, you can contact the General Register Office, telephone: (090) 663 2900, or visit the website, **groireland.ie**.

All deaths must be registered. The main responsibility for registering a death rests with a relative who knows the details in relation to the death. If there is no such relative then anyone who was present at the death or anyone in charge of the premises where the death occurred or anyone who found the body or who has knowledge of the death may be a *qualified informant*.

If the deceased person died following an illness, the doctor who attended the deceased person must complete the first part of the Death Notification Form and state the cause of death. The doctor must give this form to a relative if there is one and if that person is capable of acting as a qualified informant. The relative must complete the second part of the form giving various personal details of the deceased, including the PPS Number. The form must be given to a Registrar of Deaths within three months of the death. The relative (or qualified informant) must sign the Register of Deaths.

If there is no relative capable of doing this, then the hospital authorities (if the death occurred in a hospital) or the undertaker or some other qualified informant must complete the forms.

If the deceased died of any cause other than illness, or where a doctor did not attend the deceased, then the Coroner must be informed and he/she makes arrangements to register the death.

General Register Office
Government Offices
Convent Road
Roscommon
Tel: (090) 663 2900
Lo-call: 1890 252 076
Web: **groireland.ie**

Checklist of details required when registering a death

When registering a death, you need to have the following:

- » Full name and surname of deceased
- » The deceased's Personal Public Service Number
- » Sex, marital status, occupation and date of birth or age of the deceased
- » Date and place of death
- » If the deceased was a child, the occupation of the parent(s) or guardian(s)
- » Medical Certificate of the cause of death

Stillbirths

If you are the parent of a stillborn child, you may register the stillbirth yourself or may ask a relative to register it on your behalf. If a stillbirth is not registered within 12 months, the hospital, midwife or medical practitioner who attended the birth may be asked to register it.

A stillbirth that happened before 1st January 1995 may be registered by a parent at any time. Evidence of the birth is needed, such as a statement from the hospital or the attending doctor.

Death Certificates

You can usually get a Death Certificate from the Registrar of Deaths immediately after registering the death. If there is any delay in registration, you do not have to wait for the Death Certificate in order to apply for most social welfare payments – a death notice from a newspaper is adequate for the initial application. You need a Death Certificate in order to deal with the deceased person's estate.

Post mortems

A post mortem (sometimes called an autopsy) is an examination carried out by a pathologist after the death to try to establish the medical cause of death. The majority of deaths do not require any post mortem because the medical cause of death can be certified by a doctor who has been treating the deceased in the month prior to the death.

A Medical Certificate of cause of death is required in order to register a death. Sometimes the doctor may not be able to give such a certificate without conducting a post mortem, even if he/she has been treating the deceased.

The pathologist or hospital usually ask the family for permission to carry out a post mortem. However, it is not clear that such permission is necessary. In certain circumstances, a Coroner may have to be informed of the death and he/she may require a post mortem to be held. The permission of the family is not required in these cases.

Suicide

Suicide bereavement can be particularly difficult and there are a number of organisations that can offer support. See the list of helpful organisations on page 64.

There is a sequence of events that takes place in cases of sudden and unexpected death such as suicide. A post mortem is carried out and the Coroner tries to establish the cause of death in an inquest (see page 20).

The Gardaí may be involved if there is doubt about the cause of death but suicide is not a crime so there is no criminal investigation.

Death as a result of a crime

If the deceased died as a result of a crime, then you may have to deal with the criminal justice system. Your main contact is with the Gardaí who are investigating the crime. The family of a deceased victim have no specific role in the investigation and prosecution of a crime (unless they are involved in the crime or are witnesses). Usually the Gardaí keep the family informed of the progress of the investigation.

The Director of Public Prosecutions (DPP) decides whether or not to prosecute and, if so, what the charge is to be. The DPP is not obliged to give reasons for a decision but it is now the practice to explain such decisions to family members unless doing so would create an injustice. Family members may write to the DPP to request the reason for a decision not to prosecute.

Office of the Director of Public Prosecutions
14–16 Merrion Street
Dublin 2
Tel: (01) 678 9222
Web: **dpp.ie**

At criminal trials, it is the practice to have seating available for family members. You are not, of course, obliged to attend the trial. As a member of the family of a person who died as a result of a crime, you have no specific role in the trial itself unless, of course, you were a witness to the crime. However, at the sentencing stage, the court is obliged to take account of the impact of the crime on family members – this is usually done by means of a written medical report. Family members are also entitled to give evidence of the impact on them – this is usually called a victim impact statement.

Criminal Injuries Compensation Tribunal

You may be able to claim compensation from the Criminal Injuries Compensation Tribunal if a family member dies as a result of a crime. The compensation may cover the funeral expenses and, if you are dependants of the deceased, the loss of earnings involved.

Criminal Injuries Compensation Tribunal
13 Lower Hatch Street
Dublin 2
Tel: (01) 661 0604

Further information

AdVIC (Advocates for Victims of Homicide) is a voluntary organisation which supports families bereaved by homicide. It has published a directory of information for people bereaved by homicide. (Homicide means unlawful killing and includes murder and manslaughter.)

Web: **advic.ie**

Crime Victims Helpline provides information and support to victims of crime and those affected by crime.

Freephone: 116 006

Text: (085) 133 7711

Web: **crimevictimshelpline.ie**

The Coroner

A Coroner is involved in all cases of sudden and unexpected death. Certain deaths must be reported to the Coroner. All doctors, registrars of death and funeral undertakers, as well as people in charge of a premises in which a person died, are obliged to inform the Coroner (or a Garda Sergeant) if they suspect that the person died, either directly or indirectly:

- » As a result of violence or misadventure
- » By unfair means
- » As a result of negligence or misconduct or malpractice on the part of others
- » From any cause, other than natural illness or disease, for which the deceased had been seen and treated by a doctor within a month before the death
- » In such circumstances as may require investigation

It is an offence for any person not to carry out this duty.

The Coroner may establish that the death was due to natural causes and, if so, he/she issues a Medical Certificate of the cause of death (which can then be used to register the death).

Family members may apply to the Coroner's Court for this certificate and the Coroner's report. The report is not sent automatically. There is a fee for the report.

Inquests

If, after a post mortem, the Coroner is still unable to establish the medical cause of death, an inquest may be held. An inquest is an enquiry into the cause of death: when, where, how and why did

the death occur. In general, an inquest must be held if the Coroner considers that the death was violent or unnatural or happened suddenly or from unknown causes.

An inquest does not involve any assessment of criminal liability. In some cases, a jury must be present at an inquest but the jury has a fairly limited role. If there are criminal proceedings involved, the inquest must be adjourned until those proceedings have been completed.

The family may attend the inquest and/or be represented by a lawyer. You or your lawyer may examine witnesses.

After the inquest, the Coroner issues a Medical Certificate of the cause of death. The Coroner registers the death in these cases. The Death Certificate is then available from the District Registrar's office.

Orphans

If the bereaved include orphans under the age of 18, immediate arrangements have to be made for them. In most cases, family members care for orphans until long-term arrangements are made. If there are no family members to do this, the Health Service Executive (HSE) should be informed and they will make arrangements for the care of the children.

If the parent(s) have appointed guardians in a will, then the guardians are responsible for making decisions about the children. Appointed guardians do not have to accept this responsibility. If they do accept the responsibility, they do not necessarily take custody of the children and have day-to-day care.

Any dispute about who should be guardians and who should have custody has to be decided by the courts. That decision is based on the best interests of the child.

Burials and cremation

Burials must take place in approved burial places. All burials must be registered with the local authority and the location of the grave must be noted – this is done by the people who manage the graveyard.

Before cremation, forms must be signed by a medical referee who must be satisfied that the attending doctor viewed the body before and after death, completed the Medical Certificate and the necessary form stating that there is no reason why the body should not be cremated. The attending doctor is required to examine whether or not the death should be notified to the Coroner.

There may be difficulties arranging an immediate cremation if the cause of death is not clear. A Coroner may in this case complete a Coroner's Cremation Certificate. In some cases, a Garda Superintendent has the power to stop a cremation.

Chapter 2

Access to money

Immediate access to money

A bereaved person may need to get access to some of the deceased person's money to pay for funeral expenses. A dependent spouse, partner or children may need to get access for living expenses at least until a social welfare payment is awarded. It is not easy to get immediate access to the deceased person's money unless it is in a joint account.

Money in the bank

If money in the bank is in the deceased's name only, then you usually cannot get access to it until probate is taken out. If the amount of money is small, the financial institution may release it, provided the personal representatives or the next of kin sign an indemnity form – in effect, this is a guarantee that the bank will not be at a loss if there are other claims on the money.

If the account is held jointly with a person other than your spouse, talk to your bank. They may need a letter of clearance from the Capital Taxes Office of the Revenue Commissioners, telephone (01) 865 5000 or Lo-call 1890 201 104. This will allow you to transfer money while any possible tax liability, such as Capital Acquisitions Tax (CAT) is being examined. Spouses are not liable for CAT on inheritances from each other – see page 50 for further information about CAT.

Credit union account

It is possible for holders of credit union accounts to nominate in writing a person or people to become entitled to all or part of the holder's property in the credit union at the time of the holder's death. The present limit on the amount which can be nominated in this way is €23,000. If such a nomination is made, then the person or people nominated become the owner(s) of the money when the original holder dies. If no such nomination is made, then the credit unions account is part of the deceased's estate and is distributed in the normal way.

Insurance policies

If an insurance policy names you as the beneficiary, then you may claim the payment directly from the insurance company. You need to provide a death certificate. If there is no named beneficiary, then the proceeds form part of the overall estate of the deceased and are distributed with the other assets.

Occupational and personal pensions

The rules governing occupational and personal pensions vary. If the deceased was a member of a pension scheme, you should contact the employer or former employer or the scheme administrators to find out if there is a pension for the spouse and/or children. A pension scheme which provides benefits for a spouse is deemed to also provide benefits for a civil partner (from 1 January 2011). Self-employed people may have pension arrangements which involve some of the investments becoming part of the deceased's estate.

People who have been divorced or whose civil partnership has been dissolved may have access to some part of the pension scheme depending on whether or not a pension adjustment order was made at the time of the divorce or dissolution.

The Pensions Board have a series of leaflets on pension matters for scheme members.

The Pensions Board
Verschoyle House
28/30 Lower Mount St
Dublin 2
Tel: (01) 613 1900
Email: info@pensionsboard.ie
Web: pensionsboard.ie

Deceased receiving a social welfare payment

If the deceased was receiving a social welfare payment, you should inform the Department of Social Protection of the death and you should return the pension or payment book if there is one. You should not collect any of the deceased's payments after the death. If there are uncashed cheques that the deceased received before the death, these amounts may be paid to the executor of the estate. If the payments are being made into the deceased's account, it is possible that some payments may be lodged after the death. In some circumstances these may have to be repaid but often they do not because most payments are continued for six weeks after the death – see page 32.

You may, in general, continue to deal with your own social welfare payments in the normal way.

Dealing with bills and day-to-day matters

If the household bills are in the deceased's name, you can arrange to have them put into your name. There is no urgency about this as long as you can continue to pay them. The name on the bill can usually be changed by a telephone call to the supplier.

If the bills were paid by standing order or direct debit from the deceased's bank account you may need to inform the bank so they can cancel such arrangements.

You may need to cancel the deceased's credit and debit cards.

You may need to cancel the deceased's health insurance policy and car insurance policy. If you are the named driver on the deceased's car insurance you need to check with the insurance company about what needs to be done.

If the deceased lived alone, you may need to inform the insurance company which insures the house.

Help with money matters

Money Advice and Budgeting Service

If you are experiencing financial difficulties following a bereavement, you may get advice from your local Money Advice and Budgeting Service (MABS). Each MABS is a free, confidential, independent service staffed by trained money advisers. Contact details are available in your local telephone directory or at **mabs.ie**.

Free Legal Advice Centres (FLAC)

FLAC runs a network of part-time, free, legal advice clinics throughout the country and a telephone information and referral line, Lo-call: 1890 350 250. Details of clinics are available through your local Citizens Information Centre (CIC). There is a list of Citizens Information Centres on **citizensinformation.ie**.

Chapter 3

Income supports

The Department of Social Protection is responsible for the administration of social insurance and social assistance schemes including pensions, benefits, allowances and other payments. Social welfare information booklets, leaflets and application forms referred to in this publication are available in the following ways:

- » By telephoning Lo-call 1890 20 23 25
- » From your local social welfare office
- » From your local post office
- » On the internet at **welfare.ie** or **citizensinformation.ie**

There are Information Officers in the network of Social Welfare Offices throughout the country. They can give advice or help you fill in forms. You should consult the telephone directory for details of the office nearest to you.

The following are the main social welfare payments and schemes which are likely to be relevant to bereaved people. You should apply as soon as possible for these benefits and not later than three months after the death.

Bereavement Grant

A Bereavement Grant, (€850 in 2011) is a once-off payment based on PRSI contributions which is payable on the death of an insured person or:

- » their spouse, civil partner or cohabitant
- » their dependent child

A cohabitant is a partner you are living with that you have not married or entered into a civil partnership with.

The grant is also paid on the death of a person who has been getting a contributory pension or on the death of

- » their spouse, civil partner or cohabitant
- » someone for whom the contributory pensioner would have been getting an Increase for a Qualified Adult or an Increase for a Qualified Child

If a pensioner is entitled to a contributory pension but chose to be paid a non-contributory pension at a higher rate, they or their spouse, civil partner, cohabitant or dependants are still eligible for a Bereavement Grant. Also, someone for whom the contributory pensioner would have been getting an Increase for a Qualified Adult, but for the fact that they were getting a non-contributory payment in their own right, will qualify.

A Bereavement Grant may also be paid:

- » On the death of someone for whom a Guardian's Payment (Contributory) is paid
- » To the next of kin of someone aged 16–22 who was getting Disability Allowance at the time of his/her death

Only one Bereavement Grant is payable on a death. You should apply within twelve months of the date of death.

A Widowed or Surviving Civil Partner Grant (previously known as the Widowed Parent Grant) may also be payable in addition to a Bereavement Grant if you are widowed with dependent children. See page 37.

How to claim a Bereavement Grant

Applications are made to the address below if the deceased got one of the following payments or was someone for whom there was an Increase for a Qualified Adult/Child on one of these payments:

- » State Pension
- » Blind Pension
- » Widow's, Widower's or Surviving Civil Partner's Pension
- » Deserted Wife's Benefit or Allowance
- » Guardians Payment

Social Welfare Services Office
College Road
Sligo
Tel: (071) 915 7100
Lo-call: 1890 500 000

In all other cases, applications should be sent to:

Bereavement Grant Section
Social Welfare Services Office
Government Buildings
Ballinalee Road
Longford
Tel: (043) 334 4795
Lo-call: 1890 927 770

You must enclose the death certificate with the application form, as well as the funeral bill or receipt in your name or written permission from the person responsible for the funeral bill.

Death benefits under the Occupational Injuries Scheme

If the death happened because of an accident at work or while travelling to or from work or as a result of an occupational disease, you may be entitled to a Funeral Grant of €850 under the Occupational Injuries Scheme, instead of the Bereavement Grant.

Under the Occupational Injuries Benefit Scheme, a slightly higher guardian's/orphan's pension may be payable if the parent, step-parent or person supporting the child/children met the qualifying conditions below. Similarly, the pension paid to widows, widowers or surviving civil partners under this scheme is slightly higher than the equivalent contributory pension. If you were wholly or mainly dependent on your child for financial support, you may be entitled to a Dependent Parent's Pension under the scheme.

The qualifying conditions are that the deceased must

- » have died as a result of an accident at work or an occupational disease or
- » have been getting Disablement Pension assessed at 50% or more at the time of their death

Contact:
Disablement Benefit Section
Social Welfare Services Office
Government Buildings
Ballinalee Road
Longford
Tel: (043) 334 0000
Lo-call: 1890 927 770

Payment for six weeks after death

In general, weekly social welfare payments that the deceased was getting may be continued for six weeks after the death. The rules involved are quite complex. The six-week payment is normally paid in a lump sum by cheque.

Death of a spouse, civil partner or cohabitant

If your spouse or partner dies while getting any of the following social welfare payments and the amount included a payment in respect of you, then the same rate of payment is continued for six weeks after the death. If you qualify for a widow, widower's or surviving civil partner's payment, it is payable from the seventh week.

State Pension (Contributory, Non-Contributory and Transition)
Pre-Retirement Allowance
Supplementary Welfare Allowance
Jobseeker's Benefit or Allowance
Illness Benefit
Disability Allowance
Invalidity Pension
Blind Pension
Injury Benefit
Incapacity Supplement
Farm Assist

If you are getting any of the payments listed and your deceased spouse, civil partner or cohabitant was also receiving one of those payments, his/her payment continues for six weeks after the death. You may then continue to receive your own payment or you may qualify for a widow/widower's payment.

If you are getting one of the above payments and your spouse, civil partner or cohabitant was getting Carer's Benefit or Carer's Allowance, you may continue to get his or her payment for six weeks after his or her death in addition to your own payment.

Maternity Benefit

If your wife dies while receiving Maternity Benefit, you may qualify for the rest of her entitlement to the payment or for six weeks' payment, whichever is longer. You do not have to meet the usual PRSI contribution requirements for the benefit.

Fathers are entitled to maternity leave if the mother dies within 40 weeks of the birth. In these circumstances, the father is entitled to a period of leave, the extent of which depends on the actual date of the mother's death. If the mother dies within 24 weeks of the birth he has the right to an optional unpaid period of maternity leave of up to 16 weeks, in addition to the standard maternity leave. If the mother's death is over 24 weeks after the birth, the father is entitled to leave until 40 weeks after the birth. The leave starts within seven days of the mother's death.

Death of a child dependant

If your child, for whom you were receiving an Increase for a Qualified Child on your social welfare payment, dies, then payment of the Increase for a Qualified Child continues for six weeks after the death. Child Benefit ceases from the end of the month during which the child dies.

One-Parent Family Payment

If you are receiving the One-Parent Family Payment and your only child dies, then the payment, together with the Increase for a Qualified Child, is payable for six weeks after the death.

Carer's Allowance and Carer's Benefit

If the person you are caring for dies and was your spouse, civil partner or cohabitant and he/she was getting a social welfare payment, your Carer's Allowance/Benefit will cease from the date of their death. However, the social welfare payment of your late spouse, civil partner or cohabitant will be paid to you at the couple rate for six weeks after their death.

If your spouse, civil partner or cohabitant was not getting a social welfare payment, your Carer's Allowance/Benefit will continue for six weeks after their death.

If the person you were caring for was not your spouse or partner, your Carer's Allowance or Carer's Benefit is continued for six weeks after the death.

Child Benefit and Early Childcare Supplement

If the person (usually the mother) getting Child Benefit (and Early Childcare Supplement) dies, you should contact the Child Benefit Section to get the payment transferred to the other parent or the child's guardian.

Payments for widowed people and surviving civil partners

Widow's, Widower's or Surviving Civil Partner's Contributory Pension

If your spouse or civil partner dies, you may be entitled to a Widow's, Widower's or Surviving Civil Partner's Contributory Pension from the Department of Social Protection. To qualify, you must satisfy certain PRSI contribution conditions which can be based on either your own PRSI contributions or those of your late spouse or civil partner. However, the two PRSI records cannot be combined for this purpose. Almost all PRSI classes count for this pension. This pension cannot be paid if you subsequently marry, enter into a civil partnership or live with a partner. You may be entitled to this pension even if you are separated from your spouse or civil partner or if you are divorced or your civil partnership has been dissolved.

As this payment is not means-tested, it is not affected by other income such as, for example, earnings, an occupational pension or a pension from your late spouse's or civil partner's employment.

Apply to:

Widow's, Widower's or Surviving Civil Partner's Pension Section

Social Welfare Services Office

College Road

Sligo

Tel: (071) 915 7100

Lo-call: 1890 500 000

Widow's, Widower's or Surviving Civil Partner's Non-Contributory Pension

If you are widowed but do not qualify for a Widow's, Widower's or Surviving Civil Partner's Contributory Pension, and you do not have dependent children, you may be entitled to a Widow's, Widower's or Surviving Civil Partner's Non-Contributory Pension. This is a means-tested payment that will transfer to the State Pension (Non-Contributory) when you reach 66 years of age.

One-Parent Family Payment

If you are a widow, widower or surviving civil partner, with dependent children, and you do not qualify for Widow's, Widower's or Surviving Civil Partner's Contributory Pension because you do not have enough PRSI contributions, you may be entitled to the One-Parent Family Payment. If you were living with a partner who was not your spouse or civil partner, you may be entitled to the One-Parent Family Payment if your partner dies and you have dependent children. This is a means-tested payment.

Widowed or Surviving Civil Partner Grant

A once-off grant is payable to a widow, widower or surviving civil partner with dependent children (or whose child is born within 10 months of the death of his/her spouse or civil partner) who has an entitlement to:

- » Widow's, Widower's or Surviving Civil Partner's Contributory Pension
- » One-Parent Family Payment
- » Death Benefit under the Occupational Injuries Scheme
- » Bereavement Grant
- » A Widow's/Widower's Contributory Pension from another EU state or a country with which Ireland has a bilateral social security agreement

The amount of the grant in 2011 is €6,000. It is paid in addition to a Bereavement Grant (see page 29).

Widow's, Widower's or Surviving Civil Partner's Pension under the Occupational Injuries Scheme

If your spouse or civil partner died as a result of an accident at work (or while on an unbroken journey to or from work) or from an occupational disease, you may be entitled to a Widow's, Widower's or Surviving Civil Partner's Pension under the Occupational Injuries Scheme, which is usually paid at a higher rate than the Widow's, Widower's or Surviving Civil Partner's Contributory Pension (see page 31).

Widow's, Widower's or Surviving Civil Partner's Pension from other countries

If either you or your late spouse or civil partner was insurably employed in another country in the EU or European Economic Area (EEA) or a country with which Ireland has a bilateral social security agreement, you may be entitled to a payment from that country. Alternatively, contributions from that country could, in addition to Irish contributions, help you qualify for a Widow's, Widower's or Surviving Civil Partner's Contributory Pension in Ireland. You should give details of any such employment on your application form for the payment and the Department of Social Protection will send the necessary papers to the other country on your behalf.

Guardian's Payment

Orphaned children may be entitled to a Guardian's Payment (Contributory) depending on the PRSI contributions of their parents or step-parent, or a Guardian's Payment (Non-Contributory) which is granted on the basis of a means test of the orphan's means. This is a weekly payment which is usually paid to the guardian of the children up to age 18. The payment may be paid up to age 22 if the children are in full-time education.

There is a separate guardian's pension available under the Occupational Injuries Scheme (see page 31). This is for an orphan if a parent, step-parent or another person who supported the child died because of a work-related accident or an occupational disease.

A surviving civil partner or cohabitant of the deceased parent is not a step-parent of the child.

Additional entitlements

Normally, you may only receive one weekly social welfare payment, but there are exceptions. If you are receiving a Widow's, Widower's or Surviving Civil Partner's Contributory Pension or One-Parent Family Payment and you are also entitled to either Illness Benefit, Jobseeker's Benefit, Maternity Benefit or Incapacity Supplement, you may be paid one of these payments at half the normal personal rate.

You may be able to receive a social welfare payment and also receive a half-rate Carer's Allowance, subject to a means test.

You may receive a Guardian's Payment in addition to a Widow's, Widower's or Surviving Civil Partner's Pension. A qualified child increase is also payable for the orphan.

If you are aged under 66 and qualify for a Blind Pension, you may receive this at the full rate in addition to a Widow's, Widower's or Surviving Civil Partner's Pension or a One-Parent Family Payment.

If you are getting an Invalidity Pension and satisfy the conditions for a Widow's, Widower's or Surviving Civil Partner's Contributory Pension, you can get half the personal rate of Illness Benefit, for a limited time, instead of Invalidity Pension, and claim the Widow's, Widower's or Surviving Civil Partner's Contributory Pension.

Changing from Widow's, Widower's or Surviving Civil Partner's Contributory Pension to State Pension (Contributory)

Widow's, Widower's or Surviving Civil Partner's Contributory Pension is based on either your own PRSI contributions or those of your spouse or civil partner. The State Pension (Contributory) is based only

on your own social insurance contributions, therefore those of your spouse or civil partner cannot be used to qualify for it. A separate application must be made if you think you qualify for the State Pension (Contributory). However, if you do not qualify you may continue to get your Widow's, Widower's or Surviving Civil Partner's Contributory Pension unless you subsequently marry, enter into a civil partnership or cohabit with a partner.

Other social welfare benefits and payments

Fuel Allowance

Fuel Allowance is a payment that applies for 32 weeks from September to the end of April each year. It is a means-tested payment and is subject to certain other qualifying conditions. The current rate is €20 a week. A Smokeless Fuel Allowance may also be payable in certain areas – it is currently €3.90 a week.

Living Alone Increase

The Living Alone Increase is a weekly payment for people receiving certain social welfare payments who are living alone. You must apply separately for this increase to the section of the Department of Social Protection which deals with your main social welfare payment. The Living Alone Increase is then normally included in your main payment.

Free Travel

You are entitled to a free travel pass if you are permanently living in Ireland and:

- » You are aged 66 or over
- » You are aged between 60 and 66 and your late spouse or civil partner held a free travel pass and you are getting certain payments from the Department of Social Protection
- » You are under the age of 66 and are getting certain long-term disability payments or Carer's Allowance from the Department of Social Protection, or similar payments from another EU/EEA member state or a state with which Ireland has a bilateral social security agreement
- » You are a specified carer for a person getting Constant Attendance Allowance or Prescribed Relatives Allowance

The free travel pass allows the holder and his/her spouse, civil partner or cohabitant to travel free on public transport and some private transport services in Ireland. Companion passes may be granted to enable travel pass holders who are unable to travel alone to bring a companion with them.

You can also use the Free Travel Scheme to travel within Northern Ireland if you apply for a *Senior Smartpass* card that can be used in Northern Ireland. Eligibility for this card does not extend to the spouse, partner or companion.

The Free Travel Pass is issued automatically at age 66 if you are getting a social welfare pension and is issued automatically with the long-term disability payments. Otherwise, you must apply to the address overleaf.

Free Travel Section
Social Welfare Services
College Road
Sligo
Tel: (071) 915 7100
Lo-call: 1890 500 000

You can apply for the Senior Smartpass card at your local Social Welfare Office.

Household Benefits Package

The Household Benefits Package is made up of three allowances: Electricity/Gas Allowance, Telephone Allowance and Free Television Licence. Only one Household Benefits Package is payable in a household even if several members are eligible.

You are entitled to the package if you are living at the address to which the package applies and you are the registered consumer of electricity, gas and telephone and one of the following apply:

- » You are aged 70 or over
- » You are getting Carer's Allowance
- » You are caring for a person who is receiving Prescribed Relative's Allowance or Constant Attendance Allowance
- » You are aged between 66 and 70 and you are getting certain long-term payments and live alone or only with certain specified people
- » You are aged between 66 and 70 and you pass a means test and live alone or only with certain specified people
- » You are under 66 and getting certain disability payments and live alone or only with certain specified people

- » You are aged between 60 and 65 and your late spouse or civil partner qualified for the package and you are getting certain payments from the Department of Social Protection

Apply to:

Household Benefits Package Section
Social Welfare Services
College Road
Sligo
Tel: (071) 915 7100
Lo-call: 1890 500 000

Treatment Benefit

Treatment Benefit includes Dental Benefit, Optical Benefit and hearing aids. Entitlement to any of these benefits is based on PRSI contributions. Dentists, opticians or hearing aid suppliers normally keep stocks of application forms.

If you are dependent on your spouse or civil partner and he/she dies when over the age of 60 while eligible for Treatment Benefit, you may continue to be eligible for as long as you remain widowed.

For further information, contact:

Social Welfare Services Office
Oliver Plunkett Road
Letterkenny
Co. Donegal
Tel: (074) 916 4480
Lo-call: 1890 400 400

Supplementary Welfare Allowance

The Supplementary Welfare Allowance is a means-tested scheme for people with little or no income. It is not normally paid to people who are in full-time work or to full-time students.

Weekly payments may be made to people who do not qualify for any other social welfare payment or who are awaiting a decision on an application for a payment.

One-off payments can be made for exceptional or urgent needs. For example, you may qualify for an Exceptional Needs Payment if you do not have adequate means to pay for a funeral.

There are other weekly supplements available. For example, if you have difficulty paying your rent or mortgage, or if you have exceptional heating expenses due to ill-health or need a special diet due to a medical condition, you may qualify for financial assistance.

You should apply for Supplementary Welfare Allowance by contacting the Community Welfare Officer at your local health centre.

Medical card and GP Visit Card

The medical card is means-tested, which means that to qualify, your weekly income must be below a certain figure for your family size. If you were not eligible for a medical card before your spouse or civil partner died, you should apply again if your financial circumstances have changed.

GP Visit Cards are given to people who do not qualify for a medical card but whose income is below a certain level. The HSE issues guidelines for the award of both medical cards and GP Visit Cards. If your income is only a little higher than the guidelines it may be worth applying, particularly if you have high medical expenses.

You can get more information about the requirements to qualify for a medical card or GP Visit Card online at **[citizensinformation.ie](https://www.citizensinformation.ie)** or by contacting your local Citizens Information Centre or the Citizens Information Phone Service, 1890 777 121.

Chapter 4

Income tax

There are special arrangements for income tax in the year of death and there are various tax credits and allowances which are particularly relevant to bereaved people.

Civil partners and cohabitants

It is intended that civil partners be treated in the same way as married couples for tax purposes with effect from 1 January 2011. The legislation necessary to give effect to this had not been passed at the time of publication of this booklet. It is not intended to treat cohabitants in the same way as married couples.

Tax in the year of death

There are specific rules about taxation in the year of death. There are extra credits for widowed parents in the years following the death.

Single/widowed person

In the year of the death of a person who is not married, the normal tax credits for the whole year apply. This means that a refund may be due and may be claimed by the personal representatives of the deceased. The refund becomes part of the deceased's estate.

Spouses

If a couple is taxed under separate assessment and one of them dies, then the widowed person's tax credit will replace the personal tax credit of the other. He/she may also be entitled to unused tax credits that were allocated to the deceased person.

If the couple are jointly assessed for tax, then tax treatment in the year of death depends on which of the couple dies. One of the couple is regarded as the person responsible for paying the tax or 'assessable person'. The 'assessable person' is the one that the couple have nominated as such. If they have not made a nomination, then the assessable person is the higher income earner.

Death of assessable person

From the beginning of the tax year to the date of death: the couple may claim the full amount of the married tax credit and the employee credit if enough was earned (two employee credits if both were working).

From the date of death to the end of the tax year: the surviving person gets the special increased widowed person's tax credit (the same as the full married credit) and the employee credit (if eligible) and the tax bands for a single/widowed person apply.

Death of non-assessable person

If you are the assessable person and your spouse dies, you are taxed in the normal way – you are taxable on your own income for the full year and on the income of your spouse up to the date of death. You are entitled to the normal tax credits including any employee credit to which your spouse may be entitled.

Tax in the following years

In the first tax year after the death, and thereafter, the surviving person gets the Widowed Person's Tax Credit and the One-Parent Family Credit if eligible. The following additional credits are available to widows and widowers with dependent children for the five tax years beginning in the tax year after the year of death:

Widowed Parent Tax Credit

First year	€3,600
Second year	€3,150
Third year	€2,700
Fourth year	€2,250
Fifth year	€1,800

Tax exemption

The exemption limits for people aged 65 and over for 2011 are €18,000 for a single person and €36,000 for a married couple. There are extra amounts for dependent children.

If your income is less than the appropriate tax exemption limit, you are not liable for tax. If your income is slightly above the exemption limit you may get marginal relief. This means that you pay tax at 40% on the part of your income which is over the exemption limit.

In the 2011 budget it was announced that the exemption will be phased out over four years.

Tax on social welfare and other pensions

Income tax is normally payable on all occupational pensions and on most social welfare payments and pensions. Child Benefit is not taxable. In practice, if you qualify for means-tested payments such as Jobseeker's Allowance or Disability Allowance you are not liable for tax. In general, if your only income is a social welfare payment, you may not have enough income to be liable for tax.

There is no mechanism for directly taxing social welfare payments so, if you are liable for tax, this is usually applied by reducing the tax credits which apply to your other income. If your income includes a taxable social welfare payment, then your tax credits are applied to this first. This is known as *coding in*. The result is that your tax credits for your other income, for example, occupational pension or earnings, are reduced by the credit applied to your social welfare payment.

Chapter 5

Capital Acquisitions Tax

Capital Acquisitions Tax (CAT) is really two taxes: Inheritance Tax which may apply when a person dies and leaves assets to another and Gift Tax which may apply when a person, during his/her lifetime, gives a gift to another. Both taxes are payable by the person who receives the gift or inheritance. Whether or not tax is payable depends on the value of the gift or inheritance and the relationship between the giver and the receiver.

CAT is subject to self-assessment. This means that you must declare your gifts and inheritances and assess the amount of tax payable yourself. You may, of course, get professional help to do this. In general, you must pay the tax within four months of the valuation date. This is the date on which the assets are valued for CAT purposes and is the date the gift is received or probate is taken out. The Revenue Commissioners may allow the postponement of the tax due if there is hardship involved. In most cases, the payments may be spread over five years.

To get forms, or for further information, contact:
Capital Acquisitions Tax Information Unit
CRIO 9/10 Cathedral Street
Dublin 1
Lo-call: 1890 201 104
Tel: (01) 865 5000

Civil partners and cohabitants

It is intended that civil partners be treated in the same way as married couples for tax purposes from 1 January 2011. The legislation necessary to give effect to this intention had not been passed at the time of publication of this booklet. It is not intended to treat cohabitants in the same way as married couples.

Thresholds and rates

You may receive gifts and inheritances up to a certain value (threshold) without having to pay CAT. The amount involved depends on the relationship between the giver and the receiver and on other gifts or inheritances received. The thresholds given here are for 2011 and apply to gifts or inheritances taken from midnight on 7 December 2010.

Spouses

No CAT is payable if you receive a gift or inheritance from your spouse. It is expected that this will also apply to civil partners with effect from 1 January 2011.

Group A – Children

A threshold of €332,084 applies to gifts/inheritances made by a person to his/her child or to a grandchild under the age of 18 whose parent is dead. Children include adopted and step-children and long-term foster children. Foster children must have been cared for and maintained for a continuous period of at least five years before the age of 18 and must have lived with the foster parents during that time.

This threshold also applies to certain nieces and nephews – the rules here are complex but, in general, it applies to nieces and nephews who have worked in the donor's business for five years before the business-related gift or inheritance was received.

Group B – Other relatives

A threshold of €33,208 applies to gifts/inheritances from certain relatives including children, uncles, aunts, brothers, sisters, grandchildren and grandparents.

Group C – Distant relatives and non-relatives

A threshold of €16,604 applies to any relationship not included in Group A or Group B.

Aggregation

Aggregation means that inheritances and gifts received in each category since 5 December 1991 are added together for the purposes of that threshold. So, for example, if you received a gift from a parent in 1995 and then inherited from a parent in 2007, the two amounts are added together. If they are greater than the current threshold figure, you are liable for CAT.

Rate of CAT

For gifts or inheritances since 7 April 2009, CAT is charged at 25% of the amount above the threshold.

Relative of deceased spouse

If you receive a benefit from a relation of your deceased spouse, you can be assessed with the same group as your spouse would be if they were receiving the benefit from their relation. For example, if you receive a benefit from the father of your spouse, the group threshold would be Group C. But if your spouse is deceased and you receive a benefit from his/her father then the group threshold that applies to you would be the same as for a child receiving a benefit from a parent, Group A.

Family home

Under certain circumstances, there is no CAT on an inheritance of a family home. This, of course, is the case if you are the spouse of the deceased but it is also the case if the house was your principal private residence and you do not have an interest in any other residential property. There are conditions on how long you must be resident in the house before and after receiving the benefit.

Valuing the gift or inheritance

In general, the gift or inheritance is assessed at market value on the day the gift or inheritance is received.

There are special rules for agricultural property and family businesses.

Exceptions

There are a number of items which are not assessable for CAT. The most important are:

- » The first €3,000 of gifts from one donor (this does not apply to inheritances)
- » Retirement benefits and pension and redundancy payments are not usually liable to Gift Tax
- » Payments for damages or compensation
- » Winnings from the National Lottery (this means you do not pay tax when you receive the money – if you then make a gift of some to another person, the gift may be taxable as may the money when passed on inheritance)
- » Gifts and inheritances for public or charitable purposes
- » Payments made during the donor's life to family members for normal maintenance, support or education
- » Certain works of art, scientific collections, houses and gardens of historic or artistic interest
- » A gift or inheritance which is taken exclusively for the purpose of paying the medical expenses (including the associated cost of maintenance) of a permanently disabled person

Further information

You can find the contact details for your regional Revenue office in the phonebook or at **revenue.ie**

Chapter 6

Dealing with the deceased person's estate

Nearly everyone has some money and/or property which has to be dealt with after death. It is possible to do this personally but it can be a complex process and involves legal responsibilities so it may be advisable to get professional advice from a solicitor and/or instruct a solicitor to deal with everything.

Wills

The first thing is to establish if there is a will and to find the original if possible.

If there is a will, then the executor needs to take out probate (this is the process by which the will is put into effect, see page 59). An executor is a person named in the will as being responsible for implementing the terms of the will. If there is no will, or if no executor has been appointed or the appointed person cannot act, an administrator may be appointed and the court issues a document known as *Letters of Administration*.

The duties of the executor and administrator are broadly the same. If the estate is complex, it may be advisable to appoint a solicitor to do the job. If matters are straightforward the executor/administrator may decide to make a personal application for probate, see page 61.

Right to inherit under a will

If there is no will, the estate is divided on the basis outlined below. If there is a will, then the assets are distributed in accordance with the terms of the will subject to the rights of the spouse or civil partner and, in some cases, the children.

The legal right share

If there is a will and the spouse or civil partner has never renounced his/her rights, for example, in separation proceedings, and is not *unworthy to succeed* (for example, a spouse who had deserted the deceased for at least two years before the death), then that spouse or civil partner has a right to what is called a *legal right share* of the deceased's estate.

If there are no children, the spouse or civil partner is entitled to one-half of the estate.

If there are children, the spouse or civil partner is entitled to one-third of the estate. The children of the deceased are not necessarily entitled to the rest but they may make an application to court if they consider that proper provision has not been made for them (see next page). This cannot result in a reduction of the entitlement of a spouse to a legal right share but it can reduce the entitlement of a civil partner.

If you find that your spouse or civil partner has made a will which does not recognise your legal right share you may still claim your right. The executor or administrator is obliged to grant you your share.

Renouncing or losing your rights under a will

There are various circumstances in which a spouse or civil partner renounces his/her rights under the Succession Act. Sometimes this might be done prior to getting married or entering a civil partnership; or the rights may be waived in favour of a child or children. If the couple are separated it is usual to renounce rights to each other's estates in a separation agreement, but separation does not always involve renunciation of succession rights. A divorce decree or the dissolution of a civil partnership does mean the end of succession rights; the court, of course, has the power to take the loss of these rights into account when deciding on the financial settlement between the spouses or civil partners.

Rights of children under a will

Unlike a spouse or civil partner, children have no absolute right to inherit their parents' estate if the parent has made a will. However, children who consider that they have not been adequately provided for may make an application to court. The child need not be a minor or be dependent on the parent in order to use this procedure. The court has to decide if the parent has "failed in his moral duty to make proper provision for the child in accordance with his means". Each case is decided on its merits and the court looks at the situation from the point of view of a "prudent and just" parent.

Anyone considering challenging a will on these grounds should get legal opinion before applying to the court. Children born within or outside marriage and adopted children have the same rights. The court cannot order a provision that will reduce the entitlement of a spouse to a legal right share but it can reduce the entitlement of a civil partner. Children have no right to claim from the estate of the deceased civil partner of one of their parents.

Intestacy

If a person dies without having made a will, or if the will is invalid for whatever reason, that person is said to have died *intestate*. If there is a valid will but part of it is invalid, then that part is dealt with as if there was an intestacy. The rules for division of the estate on intestacy are as follows:

If the deceased is survived by:

- » A spouse or civil partner but no children or grandchildren – the spouse or civil partner gets the entire estate.
- » A spouse or civil partner and children – the spouse or civil partner gets two-thirds; one-third is divided equally between the children of the deceased (the children of a surviving civil partner have no rights). If a child has already died, his/her children take a share.
- » Children, no spouse or civil partner – divided equally between the children (as above).
- » Parents, no spouse, civil partner or children – divided equally or given entirely to one parent if only one survives.
- » Brothers and sisters only – shared equally, the children of a deceased brother or sister take their parent's share.
- » Nieces and nephews only – divided equally between those surviving.
- » Other relatives – divided equally between the nearest equal relationship.
- » No relatives – the State.

Rights of qualified cohabitants

A *qualified cohabitant*, whether same sex or opposite sex, has no right to a share in the deceased's estate but, in the case of deaths occurring on or after 1 January 2011, may apply to the court for redress if the relationship ends, by death or otherwise. Such an application may be made whether or not there is a will. A qualified cohabitant in this context means that you must have been a cohabitant for at least five years or for two years if you have a child with your partner.

You may apply for provision to be made from the estate of a deceased cohabitant. You do not have any automatic right to get such provision. The court may make an order that provision be made from the estate if it is satisfied that you were financially dependent on your cohabitant partner. An application for provision from the estate of the deceased partner must be made within six months of an application for a grant of probate.

Taking out probate

Taking out probate basically means having the Probate Office certify that the will is valid and that all legal, financial and tax matters are in order so that the executor or administrator can distribute the estate.

Proving the will is the process by which the Probate Office accepts that the will is valid and may be put into effect. The Office may carry out some enquiries, for example, it may ask to see the witnesses to the will but this does not always happen.

Assets cannot be sold or distributed until the will is proven.

Appointing an administrator

If there is no will, an administrator must be appointed. An administrator is also appointed where an executor is not named in the will, dies before the testator, or is unwilling or unable to act.

The next of kin may apply for a Grant of Administration. Priority is given in the following order:

- » The spouse or civil partner
- » Child
- » Parent
- » Brother or sister
- » More distant relative

If there is doubt about who is entitled to be the administrator, the issue is decided by the Probate Registrar. Usually, an administrator is required to give an administration bond to the Probate Office – this is a surety or guarantee that you will carry out your duties properly. You pay a small premium to an insurance company for this bond, based on the value of the estate.

Objections or caveats

Any person may oppose a Grant of Probate. You can do this by lodging a caveat (objection) in the appropriate district probate registry or at the probate office.

Personal applications for a Grant of Probate

You may make a personal application for a Grant of Probate to the Probate Office or to one of the fourteen District Probate Registry offices – see page 73. You should go to the office in the area where the deceased lived at the date of death. Contact the Probate Office for an information pack.

Duties of executors/administrators

Once probate or a Grant of Administration has been granted, the jobs of the executor and the administrator are broadly similar. They are obliged to distribute the assets as soon as possible after the death, generally within a year. Beneficiaries may sue if the estate is not distributed within a year, although this may not be possible if there are legal issues to be decided.

After the Grant of Probate/Grant of Administration has been obtained the personal representative should execute a *Deed of Assent* to transfer any property held in the name of the deceased into the name of the beneficiary. The services of a solicitor are usually required for this.

Even though the Capital Acquisition Tax (CAT) is due from the beneficiaries, the executor/administrator may be held legally liable if they (the beneficiaries) don't pay it. Therefore, if you are the executor/administrator, it is very much in your interest to deduct and pay CAT before passing on the bequest. You are also responsible for paying any income or capital gains tax on income from the estate during the administration period.

The family home

Frequently, the family home (and, indeed, other property) is jointly owned by spouses or civil partners. If this is the case, the surviving person automatically becomes the owner of the property.

Property owned jointly in this way is said to be owned as *joint tenants* with the *right of survivorship*. This is generally the case when a married couple owns a house.

It is also possible to own property as *tenants in common*. This means that two or more people own property but do not intend that each person's share would become the property of the survivor(s). Such shares may be willed to other people or be inherited on intestacy.

If the surviving spouse or civil partner does not own the family home, he/she may require that it be given to him/her in satisfaction of the legal right share or the share on intestacy. If the family home is worth more than the legal right share then normally the spouse or civil partner would have to pay the difference into the deceased's estate. However, the surviving person may apply to the court to have the house given to him/her either without paying the difference or by paying such sum as the court thinks reasonable. The court may make such an order if it thinks that hardship would otherwise be caused either to the surviving person or to a dependent child.

Local authority tenancies

Any relative who was normally living with the tenant of a local authority rented dwelling is usually able to succeed to the tenancy on the tenant's death. The practice among local authorities varies on this;

some insist on a minimum number of years in residence; others allow relatives to succeed only where the accommodation is considered to be suitable to the relative's needs.

Dealing with the deceased's debts

Any debts must be paid out of the estate before anything else. Where there is not enough money in the estate to pay all outstanding bills or debts, those concerning the funeral and administration of the estate take priority, followed by debts that have security (such as housing loans) and lastly unsecured debts (for example, personal loans). Some debts may be covered by loan protection insurance in the event of death (for example, credit union loans).

Social welfare recipients

If the deceased was receiving a means-tested social welfare payment then you must inform the Department of Social Protection of the death before distributing the estate. This is to allow the Department to reclaim any overpayment of pension that may have been made. The Department has three months to decide whether or not an overpayment was made.

Estates section
Department of Social Protection
Pensions Service Office
College Road, Sligo
Lo-call: 1890 500 000
Tel: (071) 915 7100

Chapter 7

Support and counselling

Not everyone needs bereavement counselling. However, sometimes family, friends and those closest are unable to help in the process of mourning, maybe because they too are grieving or maybe you do not want to talk to someone you know about the feelings you have. Bereavement counselling offers the opportunity to explore, understand and work through feelings of grief. Often just reassurance is needed.

Helpful organisations

Barnardos Bereavement Counselling for Children

Hyde Square

654 South Circular Road

Dublin 8

Tel: (01) 473 2110 (Monday to Friday, 10am to 12 noon)

Email: bereavement@barnardos.ie

Web: barnardos.ie

Bereavement Counselling Service

(Greater Dublin Area, Bray, Kildare and Newbridge)

Dublin Street

Baldoyle

Dublin 13

Tel: (01) 839 1766

Email: bereavement@eircom.net

Web: bereavementireland.com

Bethany Bereavement Support Group

Parish-based support groups around the country

See website for local contact details:

bethany.ie

Console (Living with suicide)

Console House

4 Whitethorn Grove

Celbridge

Co. Kildare

Tel: (01) 610 2638

Helpline: 1800 201 890

Email: info@console.ie

Web: **console.ie**

Irish Hospice Foundation

Morrison Chambers

32 Nassau St

Dublin 2

Tel: (01) 679 3188

Email: info@hospice-foundation.ie

Web: **hospice-foundation.ie**

Irish Kidney Association

Donor House

Block 43A

Parkwest

Dublin 12

Tel: (01) 620 5306

Lo-call: 1890 543 639

Email: info@ika.ie

Web: **ika.ie**

Irish Sudden Infant Death Association

Carmichael House
4 North Brunswick Street
Dublin 7
Tel: (01) 873 2711
Helpline: 1850 391 391
Email: isida@eircom.net
Web: isida.ie

A Little Lifetime Foundation

(Formerly Irish Stillbirth and Neonatal Death Society)
Carmichael House
4 North Brunswick Street
Dublin 7
Tel: (01) 872 6996
Email: info@alittlelifetime.ie
Web: alittlelifetime.ie

Miscarriage Association of Ireland

Carmichael Centre
North Brunswick Street
Dublin 7
Tel: (01) 873 5702
Email: info@miscarriage.ie
Web: miscarriage.ie

National Association of Widows in Ireland

Coleraine House
Coleraine Street
Dublin 7
Tel: (01) 872 8814 or 873 3622
Email: info@nawi.ie
Web: nawi.ie

Rainbows Ireland

(helps children bereaved by parental death, separation or divorce)

Loreto Centre

Crumlin Road

Dublin 12

Tel: (01) 473 4175

Email: ask@rainbowsireland.com

Web: rainbowsireland.com

Samaritans

The Samaritans provide a national helpline number and have local branches around the country.

Helpline: 1850 60 90 90

Email: jo@samaritans.org

Web: samaritans.org

Widowed Young

Email: info@widowedyoung.ie

Web: widowedyoung.ie

Further information

Addresses for further information are provided in the relevant sections of this booklet.

Social welfare

Social welfare information booklets, leaflets and application forms referred to in this publication are available:

- » By telephoning Lo-call 1890 20 23 25
- » From your Local Social Welfare Office
- » From your local Post Office
- » On the internet at **welfare.ie**

Tax

Information leaflets on income tax and CAT are available:

- » By telephoning Lo-call 1890 30 67 06
- » On the internet at **revenue.ie**
- » At your local Revenue office (see phonebook for details)

General information

Citizens Information

Citizens Information Services (CISs) throughout the country provide a free and confidential information service on rights, entitlements, benefits, taxation, local or other information. You can find your local CIS on **citizensinformation.ie**.

Citizens Information Phone Service

Lo-call: 1890 777 121 (within Ireland)

Tel: 00 353 21 452 1600 (outside Ireland)

SMS: 086 978 8300

Email: information@citizensinformation.ie

Online

See **citizensinformation.ie** for online information.

Useful addresses

Department of Social Protection

Web: **welfare.ie**

The main social welfare offices are as follows:

Pension Services Office
College Road
Sligo
Tel: (071) 915 7100
Lo-call: 1890 500 000

Bereavement Grant Section
Social Welfare Services Office
Government Buildings
Ballinalee Road
Longford
Tel: (043) 334 0000
Lo-call: 1890 927 770

Child Benefit Section
Social Welfare Services Office
St Oliver Plunkett Road
Letterkenny
Co. Donegal
Tel: (074) 916 4496
Lo-call: 1890 400 400

Treatment Benefit Section
Social Welfare Services Office
St Oliver Plunkett Road
Letterkenny
Co. Donegal
Tel: (074) 916 4480
Lo-call: 1890 400 400

Information Services
College Road
Sligo
Lo-call: 1890 66 22 44
Lo-call: 1890 20 23 25 (for booklets, leaflets and application forms)

General Register Office

Government Offices
Convent Road
Roscommon
Web: **groireland.ie**
Tel: (090) 663 2900
Lo-call: 1890 252 076

The Health Service Executive (HSE)

HSE Infoline
Call-save: 1850 24 1850
Web: **hse.ie**

Local Health Offices are listed in the State Directory pages of the phonebook.

The Irish Association of Funeral Directors

Mespil Business Centre
Mespil House
Sussex Road
Dublin 4
Freephone: 1800 927 111
Email: info@funeralnet.ie

Probate Office

First Floor
Phoenix House
15–24 Phoenix Street North
Smithfield
Dublin 7
Tel: (01) 888 6174

There are also 14 District Probate Registries, see next page.

Revenue Commissioners

Revenue services are provided on a regional basis. See the phonebook for details or revenue.ie

Capital Taxes Division
Dublin Castle
Dublin 2
Lo-call: 1890 20 11 04

District Probate Registries

In addition to the Probate Office in Dublin there are fourteen District Probate Registries in Ireland, located in local Circuit Court Offices. Where the deceased lived in Dublin, Meath, Kildare or Wicklow or lived outside Ireland, application for a grant must be made to the Probate Office in Dublin. Where the deceased lived in Ireland in any county other than Dublin, Meath, Kildare or Wicklow the applications may be made either to the Probate Office in Dublin or to the local Probate Registry.

List of District Probate Registries

OFFICE	ADDRESS	TELEPHONE
Castlebar	The Courthouse Breaffy Road Castlebar Co. Mayo	(094) 904 3802
Cavan	The Courthouse Farnham Street Cavan	(049) 433 1530
Clonmel	The Courthouse Clonmel Co. Tipperary	(052) 612 9183
Cork	The Courthouse Washington Street Cork	(021) 427 1223
Dundalk	The Courthouse Market Square Dundalk Co. Louth	(042) 939 2300

Useful addresses

Galway	The Courthouse Courthouse Square Galway	(091) 511 500
Kilkenny	The Courthouse Parliament Street Kilkenny	(056) 772 2073
Letterkenny	The Courthouse Letterkenny Co. Donegal	(074) 912 8711
Limerick	The Courthouse Merchant's Quay Limerick	(061) 414 655
Mullingar	The Courthouse Mount Street Mullingar Co. Westmeath	(044) 934 8315
Sligo	The Courthouse Sligo	(071) 914 2228
Tralee	The Courthouse Ashe Street Tralee Co. Kerry	(066) 712 1998
Waterford	The Courthouse Catherine Street Waterford	(051) 874 144
Wexford	The Courthouse County Hall Wexford	(053) 912 2329

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Feedback form

Information for those affected by bereavement

We would appreciate your comments on this publication. Please tell us what you found useful and what further information or other topics you would like to see in future editions.

Was the information useful?

Was it easy to understand?

Please list any sections which you found difficult to understand.

What did you think of the way that the information is laid out, the order of topics etc.?

Are there any improvements or inclusions which you would like to suggest for the next edition?

Please return your comments to:
Information Resources, Citizens Information Board,
George's Quay House, 43 Townsend Street, Dublin 2

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Benefits and Taxes
Information for School Leavers
Disability Information Factsheets
Information Factsheets
for Older People
Employment Rights Factsheets

Wallcharts

Benefits and Taxes (rates
of payment for the main
entitlements)
Information for People with
Disabilities
Information for Older People

Booklets and directories

Bereavement guide
Entitlements for over sixties
Entitlements for people with
disabilities
Employment Rights Explained
Where to Complain –
a guide for consumers
Directory of National Voluntary
Organisations and Other
Agencies (price €12)

Periodicals

Relate – the journal of
developments in social services,
policy and legislation in Ireland
(price €15.85 per year)
EU Supplement – published
quarterly with Relate
Voice: Influencing Social Policy
– the social policy journal
Speaking Up for Advocacy –
the advocacy journal

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The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

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