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Relate

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The journal of developments in social services, policy and legislation in Ireland

Information following a bereavement

This issue of *Relate* provides an overview of things you may need to know after a bereavement, including arranging the funeral, accessing money, claiming social welfare payments and administering the deceased person's estate.

Immediate issues following a bereavement

Some issues arise immediately after a death, for example, funeral arrangements may need to be organised. You can engage an undertaker or funeral director to deal with most aspects of the funeral. The Irish Association of Funeral Directors, iafd.ie, has a list of funeral directors and has drawn up a code of practice that explains what you can expect from any of its members. If you wish to arrange a cremation, you should contact a funeral director who will ensure that the statutory requirements are met.

Compassionate leave

If a member of your close family dies, your entitlement to compassionate leave from work will depend on your employment contract, on custom and practice within your workplace, or on your employer's discretion. Under employment law, force majeure leave only applies in the case of injury or illness of a close family member and does not give entitlement to leave following a death.

Registering the death

Registering the death should be done as soon as possible and no later than three months after the death. It is usually registered by the next of kin. Alternatively, it may be registered by a person who was present during the death or final illness of

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the person who died, or by any other person who has knowledge of the required particulars. A Death Notification Form stating the cause of death is needed to register the death. You can get this from the doctor who attended the deceased person during their last illness.

When you register the death, you can get a death certificate from the Registrar of Births, Deaths and Marriages at the same time.

In certain cases of sudden or unexplained death, the Coroner may investigate the cause. If the cause of death is not clear, a postmortem examination (sometimes called an autopsy) may be carried out. If this does not explain the death, an inquest may be held. The Coroner makes arrangements to register the death.

Access to money

When someone dies, their personal representative distributes their money and property according to the law. A personal representative is either an executor (where there is a will) or an administrator (where there is no will).

Occasionally, difficulties can arise when a bereaved person may need to get access to some of the deceased person's money to pay for funeral expenses. It may also be the case, for example, that a dependent spouse or civil partner or dependent children may need to get access to money 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 a bank account

If money in a bank account is in the deceased person's name only, then you usually cannot get access to it until probate is taken out. Probate is a declaration that the deceased person's will is valid.

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 the deceased person's spouse or civil partner (for example, the deceased person's brother or parent), the bank may need a statement from Revenue's Capital Taxes Office. This will allow you to transfer money while any possible tax liability, such as Capital Acquisitions Tax (CAT), is being examined.

If you think the deceased person may have had a dormant bank account (defined as an account that has had no customer-initiated transactions for 15 years), you should contact the financial institution at which the account was held. If that

Assistance in the case of a death abroad

In the case of a death abroad, Irish embassies and consulates provide help in connection with the deaths of Irish citizens and with making arrangements for the return of the remains to Ireland. A list of Irish embassies and consulates is available on the Department of Foreign Affairs and Trade website: dfa.ie. An undertaker in Ireland should be able to help you deal with the formalities and arrangements required and help you find a suitable funeral director in the other country. Repatriation of the remains of a deceased person to Ireland can be a complicated and costly process. Another option is to have the body cremated abroad and the ashes returned to Ireland.

financial institution no longer exists and you want to find out where to make your enquiry or claim, you should contact the Banking and Payments Federation Ireland (BPF). Even if the funds in a dormant account have been transferred to the Dormant Accounts Fund, the deceased person's next of kin still has a claim on the funds.

Post office savings

The following applies for post office savings accounts in one name only:

- If the investor left instructions on a nomination form, the proceeds of the savings deposit account or savings certificates will be distributed according to those instructions
- If the investor made a will, the proceeds will be distributed in accordance with the will
- If there is no will, the usual rules for inheritance will apply

If the amount involved is less than €10,000, you will not have to wait to take out a grant of probate. All you have to do is get a claim form from any post office and send it to the Post Office Savings Bank, Deceased Section, with the following documents:

- Death certificate
- Post office deposit book
- Original will or certified copy of the will

You will be sent a form of indemnity which you will have to sign before a Peace Commissioner, Commissioner for Oaths, general practitioner (GP), clergyman or a member of the Garda Síochána.

Credit union accounts

If the deceased person had a credit union account and had completed a valid nomination form when opening the account, nominating someone as next of kin, the proceeds of the

account up to a maximum of €23,000 go to the person or persons nominated on the form. They do not form part of the deceased person's estate.

The balance of the account forms part of the deceased person's estate and is distributed in accordance with the will and /or succession law.

Insurance policies

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

Occupational and personal pensions

The rules governing occupational and personal pensions vary. If the deceased person 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 or civil partner and/or children. Self-employed people may have pension arrangements which involve some of the investments becoming part of the deceased person's estate.

Divorced people and those 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.

Household bills and debts

If household bills are in the deceased person's name, you can arrange to have them put into your name or the relevant person's name. If the bills were paid by standing order or direct debit from the deceased person's bank account, you may need to inform the bank to cancel them. You may need to cancel the credit and debit cards of the person who died. You may also need to cancel their health, car or home insurance.

For personal loans, you are only liable for debts for which you have signed. If you are having difficulty making repayments on a loan, you should let the company know what has happened and ask for time to work out what you can actually afford, given your changed circumstances. If you are asked to take over the payments on a loan in the sole name of the deceased person, you are not legally obliged to do so as this should be paid out of the estate.

If you are experiencing financial difficulties following a bereavement, you may get advice from your local Money Advice and Budgeting Service (MABS). Contact details are available in your local telephone directory or at mabs.ie.

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 Service, visit centres.citizensinformation.ie.

Income supports

If the person who died was getting a social welfare payment, or if you were claiming for them as a dependant or you were getting a Carer's Allowance to look after them, it is important to notify the Department of Social Protection soon after the death.

Notifying the Department does not mean the payment will be stopped immediately. In many cases, the spouse, civil partner, cohabitant, parent or carer may continue to receive a payment for six weeks following the person's death.

In most cases, you will get a cheque from the Department of Social Protection that represents six weeks of the payment that the deceased person was getting. If your qualified adult or qualified child dies, you will continue to receive the Increase for a Qualified Adult or Increase for a Qualified Child as part of your payment for the six-week period following the death. From January 2016 Carer's Allowance will be paid for 12 weeks (instead of the six weeks currently) after the death of the person being cared for.

After a bereavement your circumstances may change and you may need additional financial support. The Department of Social Protection provides certain payments to help families and bereaved people at this difficult time. You may continue to get the payment you were getting, the payment you had been getting may change or you may qualify for a new payment.

For some social welfare payments you must have paid enough Pay Related Social Insurance (PRSI) contributions to qualify. Other payments have a means test and whether you qualify depends on your income. If either you or your late spouse or civil partner had been in insurable employment in another country in the 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, it may be possible to qualify for a contributory pension in Ireland using social security contributions paid in another country.

Means test following the death of one of a couple

If you are getting a payment in your own right when your spouse, civil partner or cohabitant dies, you will continue to get your payment. If your spouse, civil partner or cohabitant dies while you are getting (or were entitled to) State Pension (Non-Contributory), Blind Pension or Carer's Allowance, you are not assessed on your full joint means after their death.

Half of the means that had been assessed jointly will be deducted from your total means after their death. However any additional means are assessed if they increase after the death.

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

Widow's, Widower's or Surviving Civil Partner's (Contributory) Pension is a weekly payment to the spouse or civil partner of a person who has died. Either you or your late spouse or civil partner must have enough PRSI contributions to qualify. Currently, applicants must have at least 260 paid PRSI contributions to qualify, as well as fulfilling other conditions in relation to PRSI.

At the age of 66 your payment increases to the State Pension (Contributory) rate. The pension remains payable while you remain widowed or a surviving civil partner. If you re-marry or start to cohabit, it is no longer payable. You may get increases for qualified children with your pension – these remain payable while the child is aged under 18 and they may then be continued until age 22 if the child is in full-time education.

From January 2016 the maximum Widow's, Widower's or Surviving Civil Partner's (Contributory) Pension for people aged 66 and over will increase by €3 per week.

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

Widow's, Widower's or Surviving Civil Partner's (Non-Contributory) Pension is a means-tested payment for widows, widowers or surviving civil partners aged under 66 without dependent children who do not qualify for the Widow's, Widower's or Surviving Civil Partner's (Contributory) Pension. If you have dependent children you should apply for a One-Parent Family or Jobseeker's Transitional payment.

To qualify for Widow's, Widower's or Surviving Civil Partner's (Non-Contributory) Pension you must satisfy the habitual residence condition and you must not be cohabiting. At the age of 66 you transfer to the State Pension (Non-Contributory).

Your means include any income you have or property (except your own home) or an asset that could bring in money or provide you with an income.

Your means are assessed using specific rules under the following headings:

- Cash income (including income from work)
- Value of capital (for example, savings, investments, cash on hand and property, not including your own home)
- Income from property personally used

One-Parent Family Payment

If you have a dependent child or children, you can apply for the One-Parent Family Payment (OFP), which is a means-tested payment. If you apply because you are parenting alone due to the death of your spouse, partner or civil partner, you may get OFP for up to two years from the date of the person's death, provided your youngest child is aged under 18. (Usually, OFP lasts until the youngest child is seven years old with some exceptions for people who are caring for children or adults.)

Widowed or Surviving Civil Partner Grant

This grant is available to widows, widowers or surviving civil partners who have one or more dependent children living with them or to a widow or surviving civil partner whose child is born within 10 months of the death of her spouse or civil partner. The grant is a once-off payment of €6,000.

For the purpose of the Widowed or Surviving Civil Partner Grant, a qualified child is a child up to age 18, who is normally resident in the State and who is living with you. A child aged between 18 and 22 who is normally resident in the State continues to be a qualified child provided they are in full-time education at a recognised school or college.

Guardian's payments

If you are taking care of an orphan you may get a guardian's payment. Entitlement to the Guardian's Payment (Contributory) depends on the PRSI contributions of a parent or step-parent. The Guardian's Payment (Non-Contributory) is granted on the basis of a means test of the orphan's means. If an orphan is attending a full-time education course, aged between 18 and 22 years and not living with or in the care of a guardian, the guardian's payment can be paid directly to the orphan.

The Guardian's Payment (Contributory) is paid at a standard rate of €161 per week and the maximum Guardian's Payment (Non-Contributory) is €161 per week.

Occupational Injuries Benefit Scheme

You may be entitled to death benefits under the Occupational Injuries Benefit (OIB) Scheme if your spouse or civil partner:

- Died as a result of an accident at work (or travelling to or from work)
- Died from an occupational disease
- Was getting a Disablement Pension assessed at 50% or more

These death benefits include a Funeral Grant and a Widow's, Widower's or Surviving Civil Partner's Pension. If the deceased person was parenting or supporting a child, the child may qualify for a Guardian's Payment under the OIB Scheme.

Selling your home

In some cases you may decide that you wish to move house following the death of a spouse or partner. If you sell your home, the proceeds of the sale are normally taken into account as means. However there is a special provision which allows you to sell your home in certain circumstances and have some or all of the proceeds of the sale excluded from the means test. This exemption only applies if you are getting one of the following payments:

- State Pension (Non-Contributory)
- Widow's, Widower's or Surviving Civil Partner's (Non-Contributory) Pension (if you are 66 years of age or over)
- Disability Allowance or Blind Pension

If you are living in accommodation which no longer suits you or which you are no longer able to maintain, you may be able to sell your home and move to more suitable accommodation and have up to €190,500 of the proceeds of the sale excluded from the means test. This exemption of €190,500 applies if you sell your house in order to:

- Buy or rent more suitable alternative accommodation
- Move into a private nursing home which is registered under the Health (Nursing Homes) Act 1990
- Move in with a person who is getting a carer's payment to care for you
- Move to sheltered or special housing in the voluntary, co-operative, statutory or private sectors

Usually the first €190,500 of the sale proceeds is not taken into account. However, if you use the proceeds of the sale to buy more suitable accommodation, the balance of the proceeds **after** buying the new accommodation is exempt up to a limit of €190,500.

Other benefits

There are other social welfare benefits and payments which you may be able to claim following a bereavement, depending on your circumstances.

Supplementary Welfare Allowance Scheme

The Supplementary Welfare Allowance Scheme includes Basic Supplementary Welfare Allowance, a weekly allowance for people who have little or no income and an Exceptional Needs Payment for people who can't afford essential, once-off, exceptional expenditure, such as funeral costs.

Living Alone Increase

The Living Alone Increase is a weekly payment for people receiving certain social welfare payments who are living alone. The payment is €9 a week.

Household Benefits Package

The Household Benefits Package is a package of allowances to help with the costs of running your household, for example, paying your TV licence or gas and electricity bills.

Fuel Allowance

The Fuel Allowance is a payment to help with the cost of heating your home during the winter months. It is paid to people who are dependent on long-term social welfare payments and who are unable to provide for their own heating needs.

Treatment Benefit

Treatment Benefit includes Dental Benefit, Optical Benefit and hearing aids. Entitlement is based on PRSI contributions. If you do not have enough social insurance contributions you may still qualify for Treatment Benefit if your spouse or civil partner does. If you are dependent on a spouse or civil partner in this way and they die when over the age of 60, you remain eligible for Treatment Benefit and continue to be eligible while you remain widowed or a surviving civil partner.

Income tax

There are special arrangements for income tax in the year a person dies. The tax treatment varies depending on the circumstances of the deceased person. There are some tax credits and allowances which are particularly relevant to people who have been bereaved.

Single person

In the year in which they die, a single person has the normal tax credits to which they are entitled for the whole year, January to December. If a refund of tax is due, it can be claimed by the person responsible for finalising the affairs of the deceased person.

Married couples and civil partners

If your spouse or civil partner dies, the way you are taxed in that year depends on how you were taxed as a couple, that is, whether you were taxed through single assessment, separate assessment or joint assessment.

Single assessment

If you were both taxed as single people then the Widowed Person or Surviving Civil Partner Tax Credit (see below) will replace the personal tax credit you had at the start of the year.

Separate assessment

If you and your spouse or civil partner were taxed under separate assessment, the Widowed Person or Surviving Civil Partner Tax Credit will replace your personal tax credit. You may also be entitled to unused tax credits that were allocated to your spouse or civil partner.

Joint assessment

If a married couple or civil partners are jointly assessed for tax, the spouse or civil partner with the obligation to make tax returns is known as the *assessable spouse* or *nominated civil partner*. The assessable spouse or nominated civil partner is the person the couple has nominated as such.

The tax treatment of couples jointly assessed for tax in the year where one spouse or civil partner dies depends on whether the assessable spouse or civil partner dies or the non-assessable spouse or civil partner dies.

Death of the non-assessable spouse or civil partner

In the tax year in which a non-assessable spouse or civil partner dies, the assessable spouse or civil partner:

- Is taxable on their own total income for the full year plus the total income of their spouse or civil partner to the date of death
- Is entitled to the full amount of the Married or Civil Partner Tax Credit and the PAYE credit (two PAYE credits if both have enough income that is taxable under the PAYE system)
- May claim other tax credits due to both spouses or civil partners in that year

Death of the assessable spouse or civil partner

For the period 1 January to the date of death, the assessable spouse or civil partner:

- Is taxable on their own total income and the total income of their spouse or civil partner for this period
- Is entitled to the full amount of the Married or Civil Partner Tax Credit and the PAYE credit (two PAYE credits if both have

sufficient income that is taxable under the PAYE system)

- May claim a proportion of other credits up to date of death
- Has the tax rate bands that apply to a married couple or civil partners

From the date of the person's death to the end of the tax year, the widowed spouse or surviving civil partner:

- Is assessable on their own income for this period
- Is entitled to the Widowed Person or Surviving Civil Partner Tax Credit for year of bereavement and the PAYE credit (if taxed on PAYE)
- May claim tax credits for the period following the death
- Has the tax rate bands that apply to a single or widowed person

Tax credits for widowed person or surviving civil partner

An increased personal tax credit is available to widowed people or surviving civil partners. The amount of the tax credit varies according to whether or not the surviving spouse or civil partner has dependent children and how recently the bereavement occurred.

A widowed person or surviving civil partner without a dependent child will still get the Married Person or Civil Partner Tax Credit in the year of bereavement, which is €3,300 currently.

Each year following the year of bereavement you will get the Widowed Person or Surviving Civil Partner Tax Credit, which is €2,190.

If you are a widowed person or surviving civil partner with a dependent child, you will still get the Married Person or Civil Partner Tax Credit in the year of bereavement, which is €3,300. In subsequent years, as long as you continue to have dependent children, you will get a Widowed Person or Surviving Civil Partner (with dependent children) Tax Credit (€1,650) and a Single Person Child Carer Tax Credit (€1,650).

You are also entitled to an additional tax credit, the Widowed Parent or Surviving Civil Partner Tax Credit, for the first five years **after** the year of the person's death. If you are bereaved in 2015 you will not get a Widowed Parent or Surviving Civil Partner Tax Credit until 2016. Only one Widowed Parent or Surviving Civil Partner Tax Credit is granted, irrespective of the number of children. The amount of the tax credit reduces each year.

Capital Acquisitions Tax

If you receive an inheritance following a death, it may be liable to inheritance tax, which is a type of Capital Acquisitions Tax (CAT) payable by the person who receives the inheritance.

Whether or not tax is payable depends on the value of the inheritance and the relationship between the person who has left the inheritance and the person receiving the inheritance. If you receive an inheritance from your spouse or civil partner, you do not have to pay CAT.

There are three different categories of inheritance with different limits to the amount you can receive before you become liable for tax.

The highest threshold is for group A which applies to gifts or inheritances given by parents to their children. In very limited and specific circumstances it may also apply to gifts or inheritances given to a grandchild, nephew or niece, or to an inheritance received by a parent from a child. The Group A tax-free threshold was increased from €225,000 to €280,000 in Budget 2016. This increase applies in respect of gifts or inheritances received on or after 14 October 2015.

Group B applies to most gifts or inheritances given to a grandchild, parent, nephew or niece. It also applies to gifts or inheritances given to brothers or sisters and to grandparents and great-grandchildren. The Group B tax-threshold is €30,150.

Group C has the lowest threshold and applies to any relationship not included in Group A or Group B. The Group C tax-free threshold is €15,075.

For each category, any gift or inheritance since 5 December 1991 counts towards the limit. The first €3,000 of the total value of all gifts received from one person in any calendar year is exempt. This does not apply to inheritances.

If you receive a gift or inheritance from a relation of your deceased spouse or civil partner, it is assessed under the group that would have applied if your spouse or civil partner had received the benefit.

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 must make a tax return if the total value of gifts and inheritances you have received in one of the groups, A, B or C, since 5 December 1991 is more than 80% of the tax-free threshold for that group.

CAT is charged at 33% on gifts or inheritances made on or after 5 December 2012. This only applies to amounts over the group threshold.

Under certain circumstances, there is no CAT on an inheritance of a family home. This is the case if you are the spouse or civil partner of the deceased person, 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. To qualify for this dwelling house tax exemption there are conditions on how long you must be resident in the house before and after receiving the benefit.

Dealing with the deceased person's estate

If the deceased person made a will, then the executor named in the will needs to take out probate. This means having the Probate Office certify that the will is valid and matters are in order. An executor is a person named in the will as being responsible for implementing the terms of the will.

The deceased person's assets are distributed in accordance with the terms of the will. The inheritance rights of a spouse or civil partner mean that they may have an entitlement to a minimum legal right share of the assets, even if this is not provided for in the will. The children do not have the same right but can apply to the court if they feel they have not been adequately provided for in the will.

The inheritance rights of cohabiting couples do not include any automatic entitlement. If you are in a cohabiting relationship and you die without a will, your partner has no right to any share of the estate apart from what was held jointly. A qualified cohabitant can apply to court for provision to be made from the estate.

If a person dies without having made a will, or if the will is invalid for whatever reason, they are said to have died *intestate*.

If there is no will, an administrator may be appointed, usually the next of kin or a lawyer, and the court issues a document known as a Letter of Administration. (This may also happen if there is a will but no executor.) There are rules for how assets are divided without a will, according to what relatives there are and their relationship to the deceased person.

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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Often the family home is held by a couple as joint tenants, in which case the surviving partner automatically inherits the deceased partner's interest. It is also possible to own property as tenants in common. Tenants in common share property rights but may hold different parts of a property or unequal shares and each person's share does not automatically become the property of the survivor. Such shares may be willed to the survivor or be willed to other people or be inherited according to the rules that apply if there is no will.

The duties of the executor and administrator (also known as the personal representatives) are broadly the same.

Generally, executors are obliged to distribute the assets as soon as possible after the death. Executors are under a duty to preserve the assets of the deceased person until they are distributed and to protect the assets from devaluation. For example, you should make sure that all assets required to be insured are insured for their market value.

Executors have power to:

- Deal with the estate (for example, to sell it to pay debts or distribute amongst beneficiaries)
- Represent the deceased person in legal actions and to settle legal actions against the deceased person's estate

Executors must:

- Gather together and protect all the deceased person's assets such as money, shares and property and find out their combined value
- Call in any outstanding funds due (money owing to the deceased person)
- Pay any debts or taxes owed
- Pay the funeral expenses
- Make sure that the spouse or civil partner know about their legal right share
- Make sure the entitled beneficiaries or next of kin get what they are entitled to, and that ownership of property is passed on correctly

If there are any debts, these 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 relating to the funeral, administration of the estate and the will 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).

Support and counselling

Not everyone needs bereavement counselling. However, sometimes family, friends and those closest to you may be unable to help in the process of mourning, perhaps because they too are grieving or you may not want to talk to someone you know about the feelings you have.

The Health Service Executive (HSE) has published a book about grief and bereavement for people who are grieving and for those who are supporting them. *Bereavement – When Someone Close Dies* can be downloaded or ordered at healthpromotion.ie.

The HSE has also published a directory of counselling and other bereavement support services. *You Are Not Alone – Directory of Bereavement Support Services* is available for download from healthpromotion.ie.

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