

What do do in case of death

The arrangements in case of death in Spain differ from those in the UK. This Factsheet is designed to give you some basic information to guide you through them.

Informing the authorities

If your relative, partner or friend dies in hospital, the hospital authorities will take care of the administrative details.

If the death occurs at home you should contact the municipal police (*Policía Municipal*) who will in turn advise the Forensic Judge (*Juez Forense*) who will have to come to the home to authorise the removal of the body. If the deceased had been receiving medical care and had been recently seen by his/her own doctor (*medico*), you should also contact him/her. An autopsy is not necessary unless the Forensic Judge or the deceased's doctor is in any doubt as to the cause of death.

However, in both instances, you will have to make the funeral arrangements.

In Spain, the undertakers (*pompas fúnebres*) are licensed by the competent authority. You should contact the local undertaker (if you do not know the contact details, your local Consulate will help you in this respect) with regard to making the necessary arrangements in accordance with your wishes.

Funeral arrangements

Normally in Spain funerals are held within 24 hours of death but they can be delayed to allow for family or friends to arrive. In this case the body will be kept in a morgue at additional cost.

Although all arrangements will be organised by the undertaker, you will have to decide the details. Before meeting the undertaker, consider such points as:

- a. Whether the body is to be clothed in any particular way for burial
- b. Whether any personal jewellery is to be removed from the body
- c. Whether the deceased had made any particular requests in respect to the arrangements.
- d. Whether the deceased had funeral insurance.
- e. Whether the body is to be 'laid out'.
- f. Whether the body is to be available for viewing for about 12 – 18 hours before the funeral (*velatorio*).

- **DO NOT BE RUSHED** - if you are doubtful, take someone with you.
- Be sure you are aware of the **FULL COST** of the service on which you decide.
- g. The transport of human remains to the country of origin for cremation is an extremely expensive procedure as the body has to be embalmed and transported in a lead-lined coffin.
- h. In Spain a coffin is normally placed in a recess (burial such as is known in the UK, is rare) known as a niche (*nicho*). The cost of purchasing a niche is determined by its position in the group. The highest is the cheapest and the middle the most expensive.

There is a wide range of services available. Costs vary from location to location and should be discussed with the respective undertaker. There are no hard and fast rules. In some localities you can buy a niche, in others you can make a one-off payment which covers the rent in perpetuity whilst in others the rental is on a five-year renewable basis. Failure to pay the rent results in the removal of the coffin from the niche and the bones being put in a common ossuary.

In some circumstances, funerals may be obtained for a low price by the use of a common grave. In cases of great need and depending on the local authority, it may be possible to get this service free of charge providing it is authorised by a local social worker.

Cremation is also an option (although not all locations have a crematorium) and once again, costs vary from location to location. There is a small charge if you want the ashes deposited in a common depository.

Paperwork

The death certificate, issued by the Civil Registry (*Registro Civil*) at the Court Building (*Juzgado*) is usually available within two to three days. In some towns it will be issued at the offices of the local Justice of the Peace (*Juzgado de Paz*). Remember to ask for as many original copies (*copias originales*) as you will need. As a guide, if the deceased was a British citizen, the following authorities/agencies will require a copy of the death certificate:

- **REGISTRO CIVIL** in Madrid for a certificate stating that the will being presented was the last one registered, or alternatively, there was no will (*Certificado de Ultimas Voluntades*).
- **BRITISH CONSULAR OFFICE** in your location
- **DEPARTMENT FOR WORK AND PENSIONS in the UK** (Tyneview Park, Newcastle upon Tyne) if the deceased was in receipt of a British State Pension.
- **PAYMASTER GENERAL** if the deceased received payment from a State or company pension in the UK.
- **INLAND REVENUE** if the deceased paid UK tax.
- **PROBATE OFFICE** if a UK will existed, or if the deceased had property/assets in the UK.
- **BANKS** (in UK, Spain and elsewhere) where the deceased held accounts
- **INSURANCE COMPANIES** which held life policies on the life of the deceased.
- **YOURSELF**, for your own records. This is particularly important if you decide to rent a niche for the deceased as it is required to produce the death certificate at a future date if you have to transfer the remains to another place.

NOTE:

- a. Varying rules may apply under Scottish, Channel Island or Isle of Man law.
- b. Other nationals may obtain details of certificates required by contacting their local Consular Office.

If it is found at some point that you have obtained insufficient original copies, go back to the *Registro Civil* and request more. You may be asked why you need extra copies, so take a list of those requiring copies. **DO NOT FORGET TO KEEP A COPY FOR YOUR OWN RECORD.**

Wills and inheritance

ASSETS IN SPAIN

Firstly, you must apply to the *Registro Civil* in Madrid for the *Certificado de Ultimas Voluntades*. The easiest way to do this is through a *gestoría* (agent with specialised training in certain legal/fiscal aspects but not a lawyer - there is no direct equivalent in the UK) who will send an original copy of the death certificate with full details of the deceased. However, you can get the appropriate form and envelope which needs to be completed from an *estanco* (tobacconist – in Spain tobacconists are licenced to sell government monopolised goods including official forms) if you have sufficient fluency in Spanish to do it yourself. This usually is returned in about two to three weeks. The death certificate will be returned from Madrid with the *Certificado de Ultimas Voluntades*.

When you have this certificate, take it to a notary where the inheritance deed (*Escritura de Aceptación de Herencia*) will be prepared. This is the deed that has to be signed by all heirs (or their representatives) simultaneously by which they accept their inheritance. Any heirs not in Spain can appoint a representative (holding their power of attorney) which can be arranged by their nearest Spanish Embassy or Consulate.

To prepare this deed, the notary will need full details of all assets, deeds and the last Urban/Rural tax receipt for any property, documentation covering bank accounts, shares, etc. Be sure you understand exactly what is required so that the *Escritura de Aceptación de Herencia* is correctly prepared. Once the *Escritura de Aceptación de Herencia* has been signed, you will be given an original and several official copies. These must be taken to the tax office to pay the death duties. Remember **DEATH DUTIES MUST BE PAID WITHIN SIX MONTHS OF DEATH** or surcharges will be applied.

If you are unable to complete the *Escritura de Aceptación de Herencia* within this time, you can present an *autoliquidación* by going to your nearest Spanish tax office, completing the appropriate form and paying the estimated taxes. These taxes will be adjusted later when the deed is available.

Where property is involved (after you have paid taxes and being in receipt of the stamped inheritance deed), the inheritance deed must be taken to the Property Registry (*Registro de Propiedad*) for the name(s) of the new owner(s) of property to be registered. Another copy of the inheritance deed must then be taken to the local Town Hall to pay the (*Plusvalía*) tax. **THAT MUST ALSO BE PAID WITHIN SIX MONTHS.** It is advisable that you rely on professional advice in all these matters.

ASSETS IN UK

The following is given as a guide. Assets held in a country other than the UK are subject to the laws of that country.

If the deceased has left a British will appointing an executor, that person should be contacted immediately and should be sent an original copy of the death certificate ratified by the local British Consular Office.

NOTE: All copies of the death certificate sent to the UK should be ratified by the British Consular Office as they will be in Spanish, unless they have already been translated by an official translator.

If no executor has been appointed, or you have been named as the executor, there are two courses open to you:

- a. You can appoint someone in the U.K. (usually a lawyer) to act on your behalf by power of attorney.
- b. You can tackle the matter yourself.

In the case of b), the first thing to do is to apply to the Probate Office for the necessary forms. As you will have to go to the Probate Office for a personal interview, it is wise to choose an office within easy reach. The forms come with complete instructions but, should you have any doubts, seek expert advice.

Death duty is payable on estates in the U.K. valued at over £200,000 (with effect from 1 April 1996), and an extra stamp duty form (for the Inland Revenue) must be completed in this case.

Death duties, if due, must be paid within SIX MONTHS of death. If, for some reason, you are unable to complete the Probate Forms within this time, you should contact the Inland Revenue and pay estimated taxes. Any difference will be adjusted later when the Probate Forms have been completed and Probate granted.

NOTE: Most foreigners find it helpful to employ professionals to assist with the paperwork.

THIS INFORMATION IS GIVEN IN GOOD FAITH AT THE TIME OF PUBLICATION AND IS PRESENTED AS A GUIDE ONLY.

This is one of a number of Factsheets on a range of subjects produced by Age Concern España. A full list is available from Age Concern España, Apartado 7, 07180 Santa Ponsa, Mallorca on receipt of an addressed envelope.

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