

I'm an executor - what do I need to do?

- Organise and pay for the funeral from the deceased person's funds. As long as there is sufficient balance in the account, the bank will pay a funeral invoice. However, once the funeral invoice is paid the bank will freeze the accounts to all further debits.
- Obtain an official death certificate, as this will be necessary to administer the estate. Multiple certificates can be issued by the Registry of Births Deaths & Marriages if required, and certified copies may be used in many circumstances.
- Determine exactly what the deceased assets and liabilities are, where they are located and what they are worth. This includes cash, real estate, bank accounts, shares, superannuation, life insurance, trusts, digital assets, vehicles and personal items, unpaid debts owed to the deceased and anything in joint names as well as the deceased's sole name.
- Obtain professional valuations for any assets of significant value, such as real estate, collectibles, jewellery, and business assets.
- Secure and protect the assets. Insurances should be maintained (or commenced), banks notified so that the accounts cannot be accessed, vehicles and goods stored securely, and digital assets protected appropriately.
- Identify and contact the beneficiaries named in the Will, and to possibly provide a copy of the Will to those persons who are legally entitled to request this.
- Apply for a grant of probate, if required.
- Pay any debts owing by the deceased and the estate, including tax liability, and reimbursement of any person who has spent money on the estate's behalf.
- At the appropriate time, distribute the remaining assets, or their sale proceeds, to the beneficiaries.

It usually takes at least six months to complete the estate administration, and often much longer. There are many important considerations other than those outlined here. Executors have strict legal responsibilities to the estate and the beneficiaries. Executors can be held personally liable if they fail to administer the estate according to law.

See other side for commonly asked questions

Deceased Estate Administration

What is deceased estate administration?

Broadly, it is the process of settling a deceased person's liabilities and then distributing the remaining assets to the beneficiaries. The estate must be administered as set out in the deceased person's Will and according to law.

Who is responsible for administering the estate?

If the deceased person left a Will, it should appoint a person or persons as executor. The executor has the power and responsibility to administer the estate. However, the named executor does not have to accept the role; the position can be declined. *Please see other side for more about the executor's role.*

Where is the Will?

It is critical to locate the original Will. Without it, the estate administration will be extremely difficult. A search of the deceased person's papers may provide information about the Will's whereabouts.

What if there is no Will?

Legislation strictly determines who may administer the estate and who the beneficiaries are. Family members should seek legal advice as soon as possible if there is no Will.

What is probate?

A grant of probate is simply the court's official approval of the deceased person's last Will. A grant confirms the executor as the rightful person to administer the estate and the beneficiaries as those rightfully entitled to receive the deceased person's assets.

Is probate required?

A grant of probate is not a legal requirement, and depending on the type and value of the assets some estates can be administered without probate. However, most organisations require probate to release assets of significant value to the executor. For instance, banks require probate to release funds held where the value of those funds exceed the bank's set limit (usually \$50,000). Aged care facilities usually require probate to release an accommodation deposit or bond. In Queensland, probate is not required to transmit ownership of a house or land.

What about assets owned jointly with another person?

Anything the deceased person owned jointly with another person automatically passes to the surviving joint owner, even if the Will states otherwise. This is known as the rule of survivorship and it applies to all assets including real estate, shares, vehicles and bank accounts.

What about Powers of Attorney?

An Enduring Power of Attorney (EPA) ends as soon as the person who made it passes away. It is unlawful to continue acting under an EPA in this situation. Bank authorities given while an account holder is alive also cease immediately upon death.

Finally, it is a good idea to consider your own estate planning. Financial and family circumstances change following the death of a loved one and it is important to ensure your Will is still effective.

Please contact the team at Greenhalgh Pickard if you have any questions, or to arrange a free initial consultation.

** Disclaimer: this brochure is intended as a guide only. It is not to be read as legal advice*