

Legal Issues on the Death of a Loved One

Q: *Is there anything I need to legally do immediately after someone dies?*

A: There are no major legal steps that need to be taken immediately. The first step is to arrange the funeral. If an executor has been appointed in the will, the executor should ensure all assets are protected. For example, ensure the house is locked and secure.

Q: *How can I access money to pay bills?*

A: Bank accounts solely in the name of the deceased will be frozen once the bank is advised of the death. Spouses should ensure they have joint bank accounts or have sufficient money in their own bank account to cover the expenses for a few months. The bank will release money from a frozen bank account to pay funeral expenses only.

Q: *Do I have to get Probate?*

A: Not in all circumstances. Probate is required if the deceased has residential property in New South Wales, but it is not required for residential property in Queensland. It also depends upon the value of assets held by the deceased. For example, many banks require Probate if the bank account has a balance over \$50,000.00, but only if the account is held solely by the deceased. Accounts in joint names will automatically pass to the surviving party. The bank or financial institutions, will advise the executor if Probate is required.

Q: *What is Probate?*

A: Probate is a document issued by the Supreme Court. It is proof that the will is the last will of the deceased. Probate is issued after advertising is carried out and an application is made to the Court. Once issued, it provides the executor with the legal authority to deal the deceased's estate. Most executors will instruct a solicitor to apply for Probate.

Please call the Wills & Estates Office, Robina on 07 5593 2890 if you have any questions about wills, enduring powers of attorney or Probate.