

What happens when a loved one dies?

legal

By MELISA SLOAN

WHEN A LOVED one passes away, it is an overwhelming and emotional time in your life.

This is particularly the case if it is the first time you have experienced loss and have no idea of the legal requirements going forward.

Aside from saying your final goodbyes, organising a farewell or a celebration of life, there is the often-arduous task of dealing with your loved one's belongings and assets.

Let the relevant people know

If you are the executor of your loved one's *Will*, it is your role to advise the relevant people and organisations of your loved one's death.

This could include employers, banks, government agencies, insurance companies, telecommunication, and utility providers.

You may need to cancel health insurance, newspaper and magazine subscriptions, home help, cleaners, and advise the bank to cancel direct debits.

You may also need to redirect your loved one's mail if no one resides at their address.

It is also the executor's role to liaise with the funeral director to arrange

your loved one's funeral in accordance with their wishes.

Securing assets

In your role as executor, you will need to ensure that all of your loved one's assets are secured and that all keys are accounted for with respect to their properties, motor vehicles, boats, caravans and business premises.

It is imperative that current insurance is in place concerning these assets and that all motor vehicle registrations are paid.

In addition, all personal and household belongings need to be accounted for and kept in a safe place.

Legal requirements

In Victoria, if your loved one passes away with individual assets of \$50,000 in their name, an application must be made by the executor of the *Will* to the Supreme Court for a *Grant of Probate*.

If your loved one did not have a *Will* in place, an application for *Letters of Administration* needs to be obtained by their next of kin from the Supreme Court in order to administer their estate.

To prepare the *Probate* or *Letters of Administration* documents, you will need to compile an inventory of all individual assets owned and liabilities owed by your loved one at the date of their death.

In your quest to obtain this information, you may need to make

enquiries with financial institutions with whom your loved one held funds, their financial advisor, accountant, and lawyer.

Once a *Grant of Probate* is successfully obtained, the executor must administer the estate's assets on behalf of the beneficiaries until the estate is distributed in accordance with the provisions of your loved one's *Will*.

If your loved one did not leave a *Will*, then their assets will be distributed in accordance with the intestacy provisions, a government formula that stipulates how the assets must be distributed.

In Victoria, the *Administration and Probate Act 1958 (Vic)* stipulates that the assets of an estate should be distributed to the beneficiaries after a period of six months from the date of the *Grant of Probate* or *Letters of Administration*.

If an executor or administrator determines to distribute the assets before this six-month period and a claim is brought against the estate and is successful, the executor or administrator will be personally liable for this claim.

Joint assets

Joint assets are not part of *Probate* or *Letters of Administration* as they are not individually owned.

If your loved one holds assets jointly, then these assets will automatically pass to the surviving party with whom



they owned these assets.

If they hold a joint bank account, the funds in the account will become the asset of the remaining account holder.

If your loved one owned joint property with another person, this person will automatically be entitled to the whole property upon your loved one's death.

A property transfer will need to be undertaken, transferring the property to the name of the sole remaining proprietor on the certificate of title of the subject property.

Ask for help

Losing a loved one is life-changing and can raise emotions of helplessness and uncertainty.

You don't have to travel this journey alone; reach out to your family, friends

and your community — the people who support you.

Don't be afraid to ask for advice or seek support.

Professionals such as accountants, financial advisors, and solicitors will be able to answer any questions you have.

If it would help to speak to someone independent regarding how you are feeling, you may wish to reach out to a therapist.

Above all, be kind to yourself and cherish the beautiful memories of special times spent with your departed loved one.

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