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PROBATE/ESTATE INFORMATION SHEET

The meaning of Probate

Many people equate Probate with the payment of tax but there are no Death Duties in Victoria and obtaining Probate describes the process associated with proving to the Supreme Court that a person has died, that they left a Will and owned real estate or other assets valued at over $50,000. Probate is not required in all cases:

Survivorship

If the Deceased's assets were all jointly owned with a spouse or partner, then the legal principle of Survivorship means that all those assets automatically pass to the survivor. This simplifies matters and the change of ownership is usually achieved by providing a copy of the Death Certificate and, if necessary, completion of a Survivorship Application. Legal costs in such situations are normally between $500 and $1,000 plus GST and disbursements.

Small Estate

If the assets of the Estate do not include real estate (land) and are valued at less than $50,000, then it is usually possible to deal with the Estate without the need for a Grant of Probate or Administration. Asset-holders (usually banks) will allow accounts to be closed and the proceeds paid to the Estate upon signing of Indemnity documents. Legal costs in such situations are normally between $500 and $1,000 plus GST and disbursements.

Death Certificate

In all cases, the Original Death Certificate is required. This will usually be posted to the family member who notified of death 2-3 weeks after death.

Grant of Probate

If the deceased left a Will, the Court would normally issue a Grant of Probate to the Executor named in the Will. This Grant gives the Executor the authority to collect all assets of the deceased and to then deal with the assets in accordance with the Will, with a view to distributing the assets to beneficiaries and thereby finalising the Estate.

If the deceased did not leave a Will an application is made for a Grant of Letters of Administration. The person to whom the Grant is made will usually be a close relative and the Grant entitles the Administrator to collect the deceased's assets and distribute them in accordance with the laws of intestacy.

Role of the Executor

The first challenge for people who need to deal with the death of a family member or friend is to arrange the funeral. This is usually arranged without the need for consultation with a lawyer and involves the close co-operation of other family and friends. If there is any doubt about those arrangements, the Executor has been nominated in the Will to attend to the affairs of the Estate generally.

Funeral

Funeral Directors are experienced in handling the emotions associated with the recent death of a loved one. They will usually seek payment of a deposit and final payment within 30 days. Payments can usually be arranged directly from the deceased's bank account upon production of the Death Certificate.

Reading of the Will

Usually there is no need for a formal reading of the Will and the Executor informally notifies interested parties of the terms of the Will. Close relatives are entitled to a copy of the Will if they request it. After the funeral, the Executor will usually instruct a solicitor to apply for a Grant of Probate to authorise the Executor to deal with the assets of the Deceased. If there was no Will, a suitably qualified person will apply for a Grant of Letters of Administration of the Estate.

Large Estate

An Estate with assets valued at more than $50,000 or where the Deceased was the owner of real estate (other than as a joint owner) can only be administered with a Grant of Probate or Administration. This involved collection of details of assets, confirmation with asset-holders, preparation of an Inventory of Assets, having the Executor or Administration sign an Affidavit and present these documents, with the Death Certificate and original Will, to the Registrar of Probates who will then seal the Grant.

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Administration of the Estate

Once the Grant is obtained, the Executor or Administrator may collect the assets and then divide them in accordance with the Will or Rules of Intestacy. Main assets are:-

Real Estate	Insurance
Bank Accounts	Shareholding in Private or Public Companies
Superannuation	Accommodation Bond with an aged care facility

Once an inventory of assets has been finalised and a Grant of Probate or Administration obtained those assets are collected and become available for distribution to beneficiaries. Prior to final distribution the Executor or Administrator resolves matters relating to tax, social services entitlements, payment of outstanding liabilities and ensures that any assets of the Estate are insured until the Estate is finalised.

Time for Completion

Most Estates consist of a principal place of residence, perhaps another property, money invested with banks, superannuation and perhaps some shareholdings. Such Estates can usually be finalised six months after the Grant of Probate. The Estate may be finalised prior to this six-month period with the consent of all beneficiaries and if the Executor is satisfied that there is little possibility of a contest being made against the Estate.

Legal Costs

If a Grant of Probate or Administration is required, our standard fees are $6,000 plus GST and disbursements. Our fees may increase if the Estate is more complex than described above, either due to complex assets or complex distribution. We will keep the Executor or Administrator informed of any increase in costs.

Disbursements ordinarily consist of Probate Office fees, as attached, and if applicable, Land Title Office fees.

Please Note: The Supreme Court lodging fee for estates with a gross value of <u>Victorian</u> assets of $2 million or more, is payable upfront.

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Supreme Court of Victoria - Probate Office Fees

Effective from 1 July 2025

Application for a Grant of Representation (calculated on the gross value of Victorian assets only)	**Probate Office Fees**
For estates with a gross value of $0 - $249,999,99	$0
For estates with a gross value of $250,000 - $499,999.99	$529.50
For estates with a gross value of $500,000 - $999,999.99	$1,059.00
For estates with a gross value of $1 million - $1,999,999.99	$2,471.10
For estates with a gross value of $2 million - $2,999,999.99	$4,942.10
For estates with a gross value of $3 million - $4,999,999.99	$7,396.40
For estates with a gross value of $5 million - $6,999,999.99	$12,355.40
For estates with a gross value of $7 million or more	$17,297.50

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