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ESTATES

Do I Need to Apply for Probate

By Nicola Goss



When a loved one dies, the last thing you feel like doing is talking to a solicitor, however, it is important that a deceased person's affairs are tidied up following their death. If this is not done then there can be issues later on down the track with regard to the sale of properties, closure of bank accounts, transfer of life insurances etc.

Depending on the assets that a person has in their estate, their estate administration can either be relatively straightforward and tidied up in a few weeks or may be complex involving a solicitor's assistance and take some months.

One of the main things a solicitor will help you determine is whether or not you need to apply for probate in someone's estate. Probate is an order that is made from the High Court authorising the executors/administrators of someone's estate to act on behalf of the estate to tidy up all of their assets. Usually if someone holds assets over \$11,000.00 in value, then probate will need to be applied for before the administration can be completed,

however it depends on what the assets are and how they are owned.

Example 1

Tom and Katie had been happily married for 50 years and Tom suddenly died following a heart attack suffered in a bizarre couch jumping incident. Tom and Katie owned jointly a house in the Hutt Valley and had several bank accounts and term deposits in their joint names. Because all of Tom and Katie's assets were jointly owned, it was not necessary to apply for Probate to administer Tom's estate. All of the assets were transferred to Katie as the sole survivor of all joint ownership.

Example 2

Brad and Angelina had also been happily married for 50 years and owned a number of assets, both jointly and in their individual names. Angelina died from a rare case

of malaria following a trip to an Ethiopian orphanage, but under her Will she had given everything to Brad. However, because the house they lived in was in Angelina's name only, it was necessary for him to apply for probate so the estate administration could be completed. Once Probate was granted, the house was able to be transferred into Brad's sole name and all Angelina bank accounts and term deposits in her name were able to be paid out to her estate (which was essentially to Brad). If Probate had not been granted, then there is no authority for the executor of Angelina's estate to deal with her assets and they would have remained in her name.

If you are unsure as to what you need to do if you are the executor of an estate, or if one of your loved ones passes away, please do not hesitate to contact us.

- **Next issue: Minor Traffic Offences**