



ESTATE ADMINISTRATION

ARTHUR BROWNE & ASSOCIATES – GUIDING YOU THROUGH THE PROCESS

What is estate administration?

When someone passes away, their estate includes both assets and liabilities.

Assets may include: real estate; bank accounts; shares and investments; motor vehicles; personal belongings; superannuation or life insurance (in some cases).

Note: superannuation and/or life insurance will not form part of the estate if there is a valid binding death benefit nomination in place as at the date of death directing proceeds to a nominated beneficiary, or where there is no nomination in place, the trustee exercises discretion to pay benefits directly to dependents or eligible recipients.

Liabilities may include: mortgages and loans; credit cards; outstanding bills and taxes; funeral expenses.

These must be collected, managed, and dealt with before the estate can be distributed to the rightful beneficiaries.

This process is called *estate administration*, and the person (or people) responsible — usually named in the will — are called the executor(s).

A will can name more than one executor, and if so, those executors generally share the role and must act jointly unless the will provides otherwise.

At Arthur Browne & Associates, we guide executors through this process with practical and step-by-step support.

Do I need probate?

Probate is the official recognition by the Supreme Court that a will is valid and that the executor(s) have the authority to act.

You may need probate if:

- The deceased has paid a refundable accommodation deposit (RAD) to their aged care home.
- There are bank accounts or investments over a certain value (commonly \$50,000 or more).

- Institutions such as banks, share registries or government agencies require it to release funds.

You may not need Probate if:

- All assets are jointly held and pass automatically to the surviving owner.
- The estate is small and the asset holders agree to release funds without probate.

Arthur Browne & Associates assess the estate and let you know early on whether probate is required.

How long does probate take?

If probate is required:

1. Information gathering and document preparation – approx. 2 to 4 weeks.
2. Advertising intention to apply for probate – mandatory 14 days.
3. Lodging the application with the Supreme Court after advertising ends.
4. Court processing – generally takes 3 to 6 weeks after lodgement.

Total timeframe: usually around 6 to 10 weeks from when you engage us.

If probate is not required, the estate can often be administered more quickly.

Selling estate property

If the estate includes real estate, there are a few key things to understand:

Do you need probate to sell a property?

Not always. It depends on how the property was owned and what's required to prove the executor's authority to sell.

You may not need probate if:

- The property was held jointly – it passes automatically to the surviving owner.
- The Titles Office accepts a transmission of the property to the executor or beneficiary without a grant of probate, supported by:
 - o A declaration that no one is applying for probate, and
 - o Other documents (depending on the will and title status).

Be cautious: This only applies where no one is applying for probate at all. If anyone is applying for probate, this option is not available.

What if probate is being obtained?

If Arthur Browne & Associates is applying for probate on your behalf, then:

You cannot sell or settle the property until:

1. Probate is granted; and
2. The property has been transmitted into the name(s) of the executor(s).

You can't do the transmission first, because:

1. The original will is required for the probate application;
2. It can't be used twice (i.e. for both probate and transmission);
3. The Titles Office requires the grant of probate if probate is being sought.

Some real estate agents may say you can transmit the property before probate is obtained. In our experience, this is not possible when probate is being applied for.

Can you sign a contract before probate is granted?

Yes — but it must be done carefully and with proper legal advice.

We can provide you with tailored advice on this and help you liaise with your agent to make sure the contract terms are suitable and protect your position as executor(s).

How soon can distributions be made to beneficiaries?

Under Queensland law, an executor should not distribute any part of the estate to beneficiaries until at least 6 months after the date of death.

This “6-month rule” exists because:

1. Eligible persons (such as a spouse, child, or certain dependants) have 6 months from the date of death to give notice of a family provision claim against the estate.
2. If a claim is made, the executor must retain sufficient estate funds to meet any court orders or settlement.

Early distributions (before 6 Months)

If all eligible persons give written consent confirming they will not make a claim, or if there are no eligible persons, the executor may make distributions earlier than six months from the date of the deceased's death.

We will identify who the eligible persons are and prepare the necessary written consents if early distribution is being considered.

Distributing the estate within 6 months from the deceased death without the appropriate consents can expose the executor to personal liability if a claim is made later. At Arthur Browne & Associates, we ensure all legal protections are in place before any distribution is made.

Do I have to wait until all assets and liabilities are taken care of before distributing the estate?

Sometimes, executors ask for interim distributions to be made to beneficiaries. This is something we can advise you on as the estate administration progresses.

Your duties as executor(s)

As executor(s), you are legally responsible for:

- Locating the original will.
- Organising the funeral (if not already arranged).
- Identifying and securing all assets and liabilities of the deceased.
- Applying for probate (if needed).
- Paying debts and liabilities of the estate before distributing assets.
- Distributing the estate in accordance with the Will.
- Keeping records and acting in the best interests of the estate and its beneficiaries.
- Acting jointly if there is more than one executor.

At Arthur Browne & Associates, we guide you through each of these steps so that you can administer the estate confidently and lawfully.

How Arthur Browne & Associates can help

We provide full-service estate administration support, including:

- Assessing whether probate is required.
- Preparing and lodging the probate application.
- Liaising with banks, superannuation funds, and government agencies.
- Preparing transmission applications and assisting with property sales.
- Collecting assets, paying liabilities, and distributing funds.

- Advising you of your legal duties and obligations as executor(s).
 - Handling any legal issues that arise during the administration process.
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Timeline recap

- **Death certificate issued** – usually within 2–6 weeks of the funeral (the funeral home assists the executor with applying).
- **Information gathering & preparing probate documents** – approx. 2–4 weeks.
- **Advertising intention to apply for probate** – mandatory 14 days.
- **Lodgement and Court processing of probate application** – generally 3–6 weeks after lodgement.
- **Grant of probate received** – once issued, the executor can:
 - Arrange **transmission of real estate** into the executor's name (required before sale or distribution).
 - Collect estate assets such as bank accounts, shares, superannuation, and government entitlements (timeframes vary by institution).
- **Sale of property (if required)** – once transmission is completed, executors may list and sell estate property. The timing depends on the executor's instructions and the market. Settlement cannot occur until probate has been granted and the property is transmitted.
- **Payment of debts and liabilities** – including funeral expenses, mortgages, loans, taxes, and other outstanding accounts.
- **Distribution to beneficiaries** – generally not before 6 months from the date of death, unless early distribution is legally permitted with the appropriate written consents.

Note: we are unable to provide an estimate for collecting funds from banks, superannuation companies, share companies and government agencies etc. as response times vary. We will do everything we can to minimise any hold ups and keep the estate administration moving forward.

Do you have questions?

We're here to make this easier for you.

Please contact us at:

Arthur Browne & Associates

(07) 4772 2811

mail@arthurbrowne.com.au

www.arthurbrowne.com.au

Administering an estate — including its assets and liabilities — is a serious legal responsibility. Let us help you do it right.

