

When things go wrong for banking customers – the new Banking Code will help with deceased estates

The new Banking Code, which commenced on 1 July 2019, contains a new section under Part 9, Chapter 45 on helping with deceased estates.

Banks will treat the deceased person's representative with respect and compassion and provide clear and accessible information on what the deceased's representative can do to manage the customer's account in the event of their death.**

(Section 189)

****Information includes:**

- a. how to notify the Bank of a customer's death;
- b. who has authority to access the customer's account or loan details;
- c. what information the Bank needs to verify the identity and authority of that person; and
- d. what steps the person authorised needs to take to manage the deceased customer's account(s), including information about direct debits and recurring payments.

What will the Bank do once notified of a customer's death?

Prior to grant of probate or letters of administration:

If the Bank receives a request from a person authorised by a will or a person who has applied for letters of probate, **and on receiving a copy of the death certificate**, the Bank will, within 14 days of receiving the necessary information:

- a. provide access to information about the deceased's account including relevant ongoing fees; and
- b. receive payment towards the deceased's debt owed to the Bank.

(Section 191)

After grant of probate or letters of administration:

If instructions are received concerning a deceased customer's account by the Bank from the representative named in the grant of probate or letters of administration of the deceased customer, the Bank will act on those instructions within 14 days of receiving the necessary information.

(Section 190)

Joint accounts:

If a customer is a joint account holder with a deceased customer, they may continue to operate the account subject to the terms and conditions of the account.

(Section 192)

Fees:

- a. the Bank will identify any fees that are for products and services that can no longer be provided, or will not be provided to the deceased's estate;
- b. the Bank will stop charging those fees;
- c. if any fees referred to above have already been charged since the customer's death, the Bank will refund those fees.

(Section 190)

Key take away points:

- Banks should ensure their staff are trained in compliance with the above provisions and timeframes, otherwise the Bank risks breaching the new Banking Code provisions.
- The above codified provisions now make it clearer and easier for the representative of the deceased estate to access information and to engage with the Bank regarding the deceased estate's account(s).

For more information on other new Banking Code provisions you can view a previously published article [here](#) (vulnerable customers).

Watch this space for Part 2 – Proceedings against a deceased estate.



Sonia Apikian
Partner
+61 3 9252 2508
sonia.apikian@gadens.com



Susan Sumars
Senior Associate
+61 3 9252 7735
susan.sumars@gadens.com



Jana Stackhouse
Lawyer
+61 3 9252 7742
jana.stackhouse@gadens.com