HAYNES LEEUWIN
WILLS & ESTATE LAWYERS

Estate Administration and the Role of the Executor

A short guide

What is an Executor?

An Executor is the person named in a will to carry out the wishes of a person after they die. They organise to collect the assets of the deceased, pay the debts and distribute the property **as set out in the deceased's will**.

Can an Executor get advice?

Yes, they are entitled to get advice from a professional such as a Lawyer or Accountant and the costs will be paid from the estate.

Generally, what does the Executor do?

- Arrange the funeral considering the wishes of the Deceased and any legal obligations.
- The Executor is responsible for notifying all the beneficiaries names in the Will.
- Identify and secure all assets.
- Insuring assets (such as property where necessary).
- Value the assets and liabilities of the estate as at the date of death and keeping a record of those valuations.
- Obtain a Grant of Probate, which gives the Executor authority to administer the deceased's estate.
- Liaising with all relevant stakeholders.
- Collect in all assets (including sale where necessary).
- Invest assets during the administration period (where necessary).
- Deal with interests in a business.
- Completing income tax return or obtaining clearance from the Australian Taxation Office:
    - to the "date of death"; and
    - for the administration period.
- Pay all debts and consider a Statutory Notice to Creditors.
- Accounting the estate administration to the beneficiaries.
- Establishing trusts (noting, you may be a trustee of the trust created with ongoing obligations).
- Distributing the estate.

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I have been Granted Probate by the Supreme Court of Western Australia. Can I resign from my position as Executor?

No, not unless you obtain a Court Order.

What are some of the duties of an Executor?

Honesty	Good Faith	Best Interests of the Estate	Preserve and Protect Assets
Duty of Fairness	Avoid Conflict of Interest	Duty not to delegate	Duty to Account

What are the potential consequences of breaching a duty as an Executor?

Personal Liability	Removal from Office	Criminal Charges

What should I do next?

This leaflet provides general information only and is not legal advice for your particular circumstances.

Contact us for more information

General information only

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