



DUTIES OF AN EXECUTOR

WHAT IS AN EXECUTOR?

An executor is appointed by the Testator of a Will to administer the Testator's Estate in the event of their death. It is the role of the Executor to ensure that the deceased's estate is administered in strict accordance with the terms of the deceased's will.

HOW MANY EXECUTORS CAN I HAVE?

You can have a maximum of four Executors. One to two is a good workable number.

WHO SHOULD BE MY EXECUTORS?

Your Executor/s should be someone you trust implicitly and is good with financial decisions. It is also helpful if they live near you.

DUTIES OF AN EXECUTOR

The duties of an Executor may include:

- locating the last will and testament of the deceased.
- Notifying all necessary persons of the death of the deceased. This may include amongst others, family and friends, beneficiaries of the will and insurance companies.
- Identifying and locating beneficiaries.
- Dealing with general matters such as cancelling phone/internet account, turning off electricity etc.
- Taking care of funeral arrangements. It is the duty of the Executor to ensure that the funeral is carried out according to the wishes of the Testator. This may include making sure all wishes of the deceased are followed with respect to organ donation and disposition of remains.
- Applying for a death certificate.
- Apply to the Supreme Court for a Grant of Probate of the Will.

- Consulting with a lawyer and other professionals, for example accountants and financial advisors.
- Locating and identifying property belonging to the testator and taking care of and managing it in the time between the death and the distribution of the estate.
- Investing monies if appropriate on behalf of the estate.
- Pay all debts and liabilities owed by the deceased's estate. This may include such things as funeral expenses, income tax and legal fees. The executor may sell assets of estate to pay these costs.
- Making maintenance distributions to dependents prior to the completion of the estate.

A useful link to the Australian Tax Office website to help with any taxation questions is:

<http://www.ato.gov.au/individuals/content.asp?doc=/content/31669.htm>

- Ascertaining and paying from estate funds all debts of the estate.
- Distributing the estate in accordance with the Will after all debts have been paid. This could include:-
 - transferring property to the beneficiaries of the estate;
 - paying out specific legacies;
 - distributing personal effects.
- Establish trusts for beneficiaries that have not yet reached 18 years, are mentally incapable or there are specific instructions in the will.
- May be required by the court to produce a full inventory of the estate and/or an account of the administration of the estate.
- Executors can be held liable for waste of the estate assets.

As you can see from the duties above the Executor's role is a very important one with much responsibility. We recommend an Executor seek legal advice at the outset of the administration for direction and advice.

MACKEY WALES LAW

Partners
 Peter Mackey
 Patrick Sutton
 Ross Greatrex

150 Walker Street
 Townsville
PO Box 6080
 Townsville Qld 4810

Phone: 07 4772 6699

Facsimile: 07 4721 1649

Email: law@mackeywales.com.au
