

DUTIES AND RESPONSIBILITIES OF AN EXECUTOR

An executor is appointed under the terms of your will to administer your estate on your death and ensure the terms of your will are carried out. Their authority to act on your behalf commences immediately upon your death. Your executor effectively stands in your shoes and can access to all information and documents which you have the right to access during your lifetime.

DUTIES

- The executor's duty starts with ensuring your funeral and burial or cremation wishes are carried out.
- Their responsibilities then involve notifying the relevant authorities of your death and dealing with all institutions with whom you hold assets or owe debts to determine their requirements to release or transfer the assets.
- Your executor may be required to obtain a grant of probate and deal with any other requirements of the institutions before assets can be dealt with.
- Another duty of your executor is to communicate with the beneficiaries and keep them informed of the progress of the administration of the estate.
- If the estate becomes involved in any litigation, your executor will be required to prosecute or defend the action as necessary.
- The executor is responsible for ensuring your taxation affairs are finalised and all debts are paid (or provided for) before any distributions are made.

CONSIDERATIONS

The role of executor can be an onerous and time consuming task. They are entitled to claim commission for the work they undertake, but only if the court approves it or all beneficiaries (who are affected by the payment) agree. Alternatively, you may wish to leave a specific gift to the executor under your will to provide some remuneration for their efforts.

Your choice of an executor is an important decision. You want to ensure that the estate is administered efficiently and the potential for disputes are minimised. If you are appointing multiple executors, they are required to act jointly. Accordingly, if they are unable to co-operate and make decisions together, this will cause conflict and most likely delay and increase the costs involved in the administration of the estate.

Sometimes, it may be appropriate to appoint an independent person as executor. You can appoint a professional person or a trustee company to act. A professional executor or trustee company will charge fees to undertake the role. You should find out what these fees are before you decide whether or not to appoint them.

If you decide to appoint a friend or family member, it is advisable to ask if they are prepared to take on the role before deciding to appoint them.

For more information do not hesitate to contact the office.