



## What is an “Executor”?

*An Executor is someone appointed in a Will to look after the immediate affairs of someone who has passed away.*

### **What does an Executor do?**

*The first thing an Executor normally does is make sure funeral arrangements are carried out. The other main job for an Executor is to make sure the terms of the Will are properly followed.*

### **What are the legal duties and steps to follow by an Executor?**

- 1. They must first look after the assets of the deceased person. On a practical level this could include things like securing the house, looking after insurance, mowing the lawn or even finding a home for pets.*
- 2. The Executor also needs to make an assessment of the deceased person’s assets and liabilities, including money in the bank, superannuation and insurance policies.*
- 3. The Executor must then advertise their intention to apply for a “Grant of Probate”. This is the Supreme Court’s authorisation that the Will is valid and that it may be paid to the named beneficiaries (people who will inherit something in the Will.)*

- 4. After advertising the intention, the Executor lodges documents, such as a copy of the Will, death certificate and financial statements with the Supreme Court.*
- 5. Once the Court has granted Probate, the Executor pays any bills or monies owing by the deceased person.*
- 6. The Executor can start to make arrangements for the transfer of gifts and assets to the beneficiaries. Sometimes this could mean assets need to be sold, for example, a house, if it is to be “split” between several people.*
- 7. The Executor has to advertise their intention to distribute these assets. This protects the Executor from liability for future claims on the Estate.*
- 8. Once a given period of time has passed, the Executor may finally distribute the assets to the beneficiaries.*

### **Does the Executor always have to apply for a Grant of Probate?**

*No, not always. For example where assets are jointly owned sometimes they pass by law to the survivor, and then Probate is unnecessary. There are also other times in smaller Estates when Probate doesn’t need to be granted.*

## ***It all sounds a bit complex...***

*Being an Executor can be challenging, and most people have a solicitor help them with all of the above procedures. Sautelle White Lawyers have over one hundred combined years of experience in working with the legal aspects of Wills and Estates. For us, Probate procedures are fairly routine and undaunting!*

*In large Estates however, matters can still get complex, and especially where there are a lot of beneficiaries, the process of distributing the Will can be time consuming. There are many reasons why Executors work in conjunction with a good lawyer.*

## ***Can anyone be appointed to be an Executor?***

*Yes anyone over the age of 18 can act as an Executor. It would be best to make sure the person being appointed is mentally and physically capable of looking after such affairs. Lawyers are often appointed as Executors of Estates. This is sometimes the best option as it can help avoid family disputes and get your wishes carried out quickly and efficiently.*

## ***Is there any financial compensation for being an Executor?***

*If you are to receive a gift from the Will, generally the court considers that to be the reward for all your work. If you are not to benefit from the Will, you can apply to the Court for an Executor's commission. You will always be compensated for out-of-pocket expenses for your work as Executor.*

## ***Can I "quit" if I've been appointed an Executor?***

*Yes – an Executor can "renounce probate" – which means they no longer wish to be an Executor. If an Executor doesn't apply for Probate, family members, beneficiaries and other interested parties can apply to the Court to be appointed an Executor.*

## ***Does an Executor need to give permission to be appointed?***

*No – you can appoint anyone to be your Executor without asking their permission. However, it is a good idea to check the person's willingness to help out first – then you can be sure your wishes will be carried out as carefully and prudently as you have hoped.*

