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YOU ARE AN EXECUTOR OF AN ESTATE – WHAT SHOULD YOU DO?



The role of an executor is one of the most important roles that a person can undertake for another person.

An executor is a person appointed in a deceased person's Will to carry out the terms of that person's Will. An executor collects, maintains and protects the assets of the deceased person and generally carries out the wishes expressed in the person's Will.

If you have been appointed, or are advised that you have been appointed, as the executor for a person who has recently passed away, there are several things you should do as soon as possible after the person passes away:

1. Contact your lawyer, or the deceased person's lawyer (who will usually be holding the deceased person's original Will) and obtain legal advice.
2. Take all reasonable steps to ensure that the assets of the estate of which you are aware are protected. Most importantly, this will be achieved usually by ensuring that appropriate insurance is put in place (or maintained if already in place) in respect of the deceased person's residence and that the insurance company is notified

of the passing away of that person. Often, insurance policies require such notification to ensure that coverage continues. It is also important to ensure that if a residence is vacant following the death of the deceased person, insurance is put in place to ensure that any damage or loss sustained to the property is minimised and that the executor is not personally liable in any actions by the beneficiaries of the estate in respect of damaged property. It is not hard to imagine that if a property remains vacant for a period of time following death, the property may be attractive to vandals, vagrants or thieves.

3. You should ensure that you take all reasonable steps to become acquainted with the assets and liabilities of the deceased person. You should make all reasonable efforts to find details of the deceased person's bank accounts, shareholdings and investments, and liabilities such as credit cards, home loans or other debts. You should ensure that the assets of the estate, particularly personal items such as furniture and household contents, are protected. It is quite common for family members who may or may not be entitled to those assets under the Will to seek to remove those items from the estate residence shortly after death.
4. Assist where you can with the family arrangements in relation to burial and/or cremation.
5. Once the Death Certificate has been issued (this usually takes approximately 2 weeks), you should contact a lawyer to assist with administering the estate.
6. If there is more than one executor appointed under the Will, it may often be the case that one or more of those people do not wish to undertake the executorial duties. This is important because the law generally allows executors to "resign/renounce" their appointment prior to them "intermeddling" in the estate. This means that provided a person nominated as the executor of an estate has not undertaken anything substantive in relation to the administration of the estate (a case by case analysis will be required) then that person is able to renounce their appointment. This is an area where legal advice is best obtained.

Please contact one of our estate lawyers if you have been appointed as an executor and are unsure of what you need to do.



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