



**PUBLIC TRUSTEE
AND GUARDIAN**

DUTIES OF AN EXECUTOR

Your Will

Making your Will is one of the most important decisions you will make in your lifetime.

When a person makes a Will they must choose somebody to look after their affairs when they die. This person is called an **executor**.

What is an Executor?

An executor is a person chosen by you to carry out your wishes in managing your estate and is responsible for the administration and distribution of assets to beneficiaries according to those wishes.

Most people are unaware of the complexities and time involved in administering an estate.

What an executor does

Notifies beneficiaries

When a person dies, the executor locates the Will, often arranges the funeral and then immediately contacts the beneficiaries.

Looks after the estate

It is important that the executor ensures that all assets are safe and that insurance protection is arranged, if needed.

If the deceased has left property or investments that need managing, it is the executor's job to arrange for them to be looked after.

Values the estate

The executor must list all the assets and liabilities. Each item is then checked to see if its value is correct by obtaining written confirmation from banks, building societies, insurance companies, share registers, titles office, companies office, creditors and so on.

Obtains an authority to administer the estate

After all the information has been gathered by your executor, it is often necessary to apply to the Supreme Court of the ACT for a Grant of Probate to administer your estate.

Once probate is granted by the Supreme Court your executor has legal authority to collect monies, pay debts or distribute any assets to your beneficiaries.

Completes income tax returns

Before any estate can be finally distributed it is necessary to obtain a clearance from the Australian Taxation Office.

This means that if the deceased has failed to lodge a return, the executor will have to provide



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details of all income earned during the current financial year and past years.

In some cases the calculation of capital gains tax is involved.

Pays all debts

Creditors, funeral expenses, income tax, fees for administering the estate and out of pocket expenses must all be paid.

Divides the estate

When all the debts have been paid, the executor is then free to distribute the remaining assets according to the directions laid down in the Will.

Establishes trusts

Finally, executors are responsible for setting up trusts. Trusts are required if any beneficiary is under 18 years of age or mentally incapable, or where there are specific instructions in the Will.

Such trusts often need ongoing administration over many years.

Why appoint the Public Trustee and Guardian?

The role of executor is a demanding one. It requires a good understanding of legal, accounting and taxation requirements. Many people appoint a relative or close friend, but it can be difficult and time-consuming. By

appointing the Public Trustee and Guardian you remove this burden from family and friends in a time of grief.

The staff of the Public Trustee and Guardian are independent, experienced specialists in estate administration and will administer your estate competently, impartially and with sympathetic concern for your family and beneficiaries. During the administration of your estate, any money that is collected is prudently invested and earns interest at very competitive rates.

The Public Trustee and Guardian has special statutory powers to deal with small estates using simpler procedures.

The Public Trustee and Guardian is a perpetual entity and will continue to be in existence. The Public Trustee and Guardian will invest funds in a prudent manner and earn interest while the estate is under administration.

What if I already have an executor?

Many private executors find the role to be a burden. Executors in this position may be able to transfer their duties to the Public Trustee and Guardian.