
DUTIES OF EXECUTORS IN WESTERN AUSTRALIA

The usual steps taken by an Executor:

1. Obtain the last Will of the deceased and look at whether the deceased expressed wishes in relation to the disposal of his/her body.
2. Notify the deceased's beneficiaries and business associates of the death.
3. Organise the deceased's funeral.
4. Look after the estate (e.g. make sure that all the deceased's assets are secure and arrange insurance protection where required);
5. Arrange for the deceased's property and business investments that need managing to be managed.
6. Assess the immediate needs of the beneficiaries and ensure that they do not suffer unnecessary hardship within the terms of the Will and the duties and obligations of the executor.
7. Value the estate as at the date of death.
8. Obtain authority to administer the estate if required. An executor will need to apply to the Supreme Court of Western Australia for a Grant of Probate (sometimes Letters of Administration) unless the estate is small. Obtain legal advice in this regard.
9. Assume control of all the assets of the estate including but not limited to any superannuation funds of the deceased where they are payable to the estate.
10. In those cases where it will take some time to administer the estate, consider safely maximising the assets e.g. by renting our real estate on say short term lease and/or investing money in interest bearing accounts etc. Obtain investment advice where appropriate.
11. Complete any necessary income tax returns including those for the deceased before he died and those for the estate after death (in certain circumstances). Note that in some cases capital gains tax will be involved.
12. Pay all debts of the estate (e.g. funeral expenses (pay these first), creditors, income tax, fees (including all legal fees) for administering the estate and obtaining probate, out-of-pocket expenses etc. Note that beneficiaries may choose to provide funds to cover expenses to keep certain assets intact. If the deceased has insufficient assets to pay, the estate needs to be managed in a different way. Obtain legal advice.
13. Divide the estate. When all debts have been paid the executor is then free to distribute the remaining assets according to the directions laid down in the Will. Prepare a final statement and transfer cash and assets to the beneficiaries keeping appropriate records.
14. Establish trusts. Trusts are required say if a beneficiary is under 18 years of age or mentally incapable or there are specific instructions to this effect in the Will. Note that many trusts will need ongoing administration over several years.

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