



Let's talk about Executors

What is an executor?

An executor is the person or organisation you appoint to carry out the instructions in your Will and distribute your property or belongings, known as your estate.

What does an executor need to do?

An executor must carry out a range of important tasks leading up to the distribution of the estate as outlined in the *Succession Act 1981*.

These can vary depending on the estate but are likely to include:

- making sure a deceased person's wishes are carried out in line with their Will
- Notifying relevant parties including service providers, beneficiaries and social security
- obtaining probate from the Supreme Court of Queensland (this is the legal right to deal with an estate)
- verifying and protecting assets
- confirming assets are fully insured
- collecting valuables and income
- determining claims and debts
- preparing tax returns
- obtaining income tax clearances
- preparing financial statements

An executor's duties don't always end with the distribution of an estate. In some cases an executor is responsible for the ongoing administration of property or assets in a Testamentary or Minors Trust.

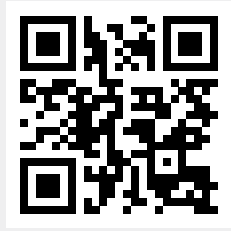
What should I consider when choosing an executor?

It's very important to choose an executor who you trust to carry out the tasks required. You can choose more than one executor who shares the responsibility of administering the estate. Some things to consider include:

- Does your executor have the necessary skills to undertake the legal requirements, taxation and business practices required?
- If you appoint a family member, will they cope with the extra burden at a time of grief and loss?
- Does your executor have the ability to act as trustee in the event Minors or Testamentary Trusts are required?
- Is your executor willing and able to administer your estate – and will they be there when needed?
- Would your executor be capable of handling conflicts amongst beneficiaries?
- Will your choice of executor cause conflict among your beneficiaries?

How long will it take to administer an estate?

The law provides that estates should not be distributed within six months from the date of death to provide time for claimants to lodge or give notice of any claims they might have. Where there are assets to sell or some other complexity such as a taxation liability or there is a claim or dispute in the estate, then time taken may be longer. For more information on estate administration view our Estate Management fact sheet at www.pt.qld.gov.au or use your phone camera to hover over the QR code.



Can I get help to act as an executor?

There are many reasons you may need help to administer an estate. These may include:



If you are living interstate or overseas



not having time for the many demands



concerns about taking on the risks

If you have been appointed and you need some help to act as executor you can contact your local solicitor or the Public Trustee.

Is an executor legally accountable?

An executor must distribute an estate in line with the *Succession Act 1981* and can be held legally accountable if something goes wrong.

For example, if property or assets are damaged and not adequately insured, an executor may be held personally liable for the loss.

What if I don't want to be an executor?

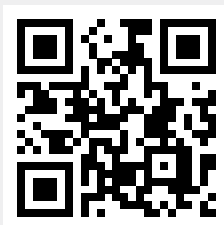
Just because you have been nominated as the executor does not mean you must accept – and you are under no legal obligation to act.

If you've been named executor, but you don't believe you have the time or ability to fulfil the role, you can choose to renounce the position. This means you give up your appointment as an executor, and the right to apply for probate. This is commonly known as 'renouncing probate'.

What is a grant of probate?

A grant of probate is the legal process to prove that the Will was the last one made, before the court will grant an applicant permission to administer and distribute the estate, as per the instructions in the Will. It may not be necessary if the estate is quite small.

In Queensland, the Wills and Estates (Probate) Registry of the Supreme Court have set out the steps to follow for obtaining a grant of probate at:



www.courts.qld.gov.au/courts/supreme-court/wills-and-estates-probate

How can I renounce my executorship?

To renounce executorship or probate means you give up your right as executor appointed under the Will to apply to the court for a grant of probate. Ideally, this should be done prior to any administration of the Will.

Wills and Probate Court renunciation forms can be found at:



www.courts.qld.gov.au/services/wills-and-probate/forms

To learn more about Wills, enduring powers of attorney, or to book an appointment, you can:

call us on
1300 360 044

visit our website
www.pt.qld.gov.au

