



A guide for executors

The executors' duties – the first steps

Before the death of the maker of the will (the testator) executors have no duties. If you know you have been appointed an executor but feel you can no longer act you should, of course, discuss this with the testator.

After the testator has died the executors' first job (once funeral arrangements are in place) is to identify and value all the assets and liabilities of the estate. They may have to obtain formal valuations of shares, property and personal effects and must find out what balances are held at banks or building societies. They must check what, if any, debts are owed.

The grant

When they have ascertained all the assets and liabilities the executors apply for the grant of probate ("the grant"). This is a court order confirming the validity of the will and giving the executors full powers to deal with the estate.

Before they can obtain the grant the executors must swear an oath to administer the estate correctly, to put the interests of the beneficiaries before their own, and to account to the beneficiaries for all the assets of the estate.

The executors will also have to complete an Inland Revenue form detailing all assets and liabilities. If the estate is sufficiently large they must calculate the amount of inheritance tax payable.

If inheritance tax is payable the executors will usually have to pay at least some of it before the grant can be obtained.

Administering the estate

Before the grant the assets of the estate are frozen, although most banks and building societies will release funds to allow funeral expenses and inheritance tax to be paid.

The grant allows the executors to close bank or building society accounts, sell or transfer shares or property and deal with all the other assets.

Once they have sufficient funds, the executors must pay any debts or other expenses, and any legacies given by the will.

Usually the executors must finalise the deceased's lifetime tax. If inheritance tax has to be paid they may have to negotiate with the Inland Revenue on the values of assets such as houses, land and family businesses.

Even the administration of a simple estate can take several months. During this "period of administration" further income tax and capital gains tax liabilities often arise. The executors may need to complete tax returns for the period of administration and provide beneficiaries with details for their personal tax returns.

Finally the executors must prepare accounts of all they have done and pay or transfer what is left in the estate to the beneficiaries.

Do you have to act as executor?

A person who is appointed as an executor does not have to act. He can refuse the appointment, either on a permanent or temporary basis. However, once an executor has begun to act in the administration of an estate, he cannot withdraw without applying to a court.

Fees and expenses

Only professionals who administer estates can charge for acting as executors but all executors are entitled to recover their out-of-pocket expenses. The estate also meets the executors' tax liabilities and the expense of any valuations that are required. If executors instruct solicitors to help with the administration, the solicitors' charges are paid from the estate.

How can Lester Aldridge LLP help?

It can take time to administer an estate; time that not everybody will have.

Acting as an executor must not be taken lightly. Executors are personally responsible for their actions and often control assets of significant value.

Whatever the nature of the estate we are happy to help with any of the executors' tasks outlined in this guide.

We can help keep any tax liabilities to the minimum and help those who inherit to plan their own tax affairs.

Our International Probate team, headed by John Maddocks, has particular expertise in dealing with assets overseas and with the estates of those living abroad who own assets in Britain.

For further information please contact David Parkhouse, the partner in charge of the UK Probate team.



0870 224 0405
info@LA-law.com
www.lesteraldridge.com