



## EXECUTORS GUIDE

### What is an Executor?

An Executor is the person legally responsible for carrying out the instructions in the person's will and administering their estate (their money, property and possessions).

Being appointed an Executor is a huge responsibility and can be a daunting one. If you are appointed as an Executor, you should think carefully before you take on the role as once you have started to deal with the estate you can't step down without a good reason.

### Initial Steps

- ❖ Register the death within 5 days of the death (unless an inquest is required). It is advisable to get several copies of the death certificate to pass to banks, insurance companies etc.
- ❖ Use the 'Tell Us Once' service to notify several Government departments in one go.
- ❖ Locate the Will – the Executor must ensure they are acting under the most recent will.
- ❖ Arrange the funeral – the deceased may have left their funeral instructions in their will or a letter of wishes. Alternatively, there may be a pre-paid funeral plan.
- ❖ Ensure any house insurance policy is updated. If the house is unoccupied the insurance company may impose conditions to be complied with to continue to insure the house.

### Obtaining Probate

The Grant of Probate is the legal document giving the Executors the authority to deal with the deceased's finances and other assets.

Whilst a Grant of Probate may not always be required, there may be circumstances where it is prudent to obtain one.

The steps to obtaining a Grant of Probate are;

- ❖ Ascertain the assets and liabilities in the estate at the date of death, together with gifts made in the last 7 years.
- ❖ Depending on the size and assets in the deceased's estate, if inheritance tax is payable, and in some circumstances even when it is not, the Executor must send the details of the estate to HMRC. Inheritance tax must be paid if it is a taxable estate.
- ❖ On receipt of the code from HMRC the Executor can then apply for Grant of Probate.
- ❖ If the estate is not taxable the Executor can apply for Probate straight away.

## **Administering the Estate**

Once the Grant of Probate has been received, the general process for Executors is to;

- ❖ Encash, sell or transfer the assets of the estate.
- ❖ Ensure that all inheritance tax has been agreed with HMRC and settled.
- ❖ Discharge all liabilities of the estate.
- ❖ Account to HMRC for any Income Tax or Capital Gains Tax that may be due.
- ❖ Distribute specific gifts and legacies under the Will. If more than 12 months from the date of death, interest will accrue on the legacies.
- ❖ Prepare estate accounts to detail the assets and liabilities of the estate and how these have changed throughout the administration period. The residuary beneficiaries will be entitled to a breakdown of how their inheritance has been determined.
- ❖ Pay the remainder of the estate to the residuary beneficiaries.

## **Recommendations**

- ❖ If the estate is in any way contested or there is a risk that a claim may be made against the estate, we would recommend the Executors take legal advice before making any distributions.
- ❖ If the Executor is not familiar with the deceased's estate, place a notice in the London Gazette giving any creditors 2 months to claim anything they are owed. If the Executor distributes the estate within that period and the estate cannot afford to pay a debt that is declared, then the Executor may be personally liable.
- ❖ Executors should hold the estate monies separate from their own funds.
- ❖ Executors should administer the estate in a timely manner and in accordance with the terms of the Will.

## How Berensens May Help

Administering an estate can be a stressful and complex process. We are here to guide and support you through the process of administering an estate. We can tailor our service to provide you with the expertise you need, when you need it, whether this is acting as your trusted legal advisor, called on as required throughout the process or taking on the responsibility to deal with every aspect of the estate on your behalf – or any combination that suits you best.

We will answer any questions you may have clearly, so as to ensure that you have peace of mind and the confidence to take on this responsibility.

Should you wish to discuss the administration of an estate or the role of executor generally, please contact us;

By post;                   **Berensens LLP**  
                                  **15 The Crescent**  
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