

# Executor Checklist

The role of an executor is important. The executor is legally responsible for carrying out the final wishes as outlined in a will. If you are the executor of a deceased estate, use this checklist to assist you.



## Introduction to the role of Executor

The role of an executor in handling the affairs of a deceased loved one is a significant responsibility. Whether you've been appointed as an executor or you're the most senior next of kin (administrator), understanding the process is crucial. At State Trustees, we are experts in deceased estate administration. Through our Executor Assist service we can support you in your important role of executor, or if you prefer, manage the administration of the full estate. Our team of experts have years of experience to ensure the estate is managed with diligent care.



**State Trustees  
provides full estate  
administration for  
over 1,000 estates  
each year.**

## What is an Executor?

An executor is legally responsible for carrying out the wishes outlined in a will. They should be reliable and able to handle complex tasks like applying and obtaining a grant of probate, debt settlement, communication with beneficiaries and risk mitigation.

## What is an Administrator?

An administrator is a person or entity appointed by the court to manage an estate when there is no valid will or when the appointed executor is unable or unwilling to fulfill their duties. The administrator's role is similar to an executor, and involves collecting, managing and distributing the deceased's assets according to legal requirements.

## How is an Executor appointed?

The executor(s) is appointed in the will. This person or organisation is granted formal authority through a process of application to the Supreme Court of Victoria. The outcome is a grant of probate, which is an official order from the court.

## How is an Administrator appointed?

In situations where there is no valid will the most senior next of kin needs to obtain a Grant of Letters of Administration through the Supreme Court. This legal document grants the most senior next of kin the authority to manage the estate and distribute assets according to intestacy laws.

## What is a Grant of Probate or Grant of Letters of Administration?

There are two types of grants. Depending on your circumstances, the following will help you determine which grant you may need to apply for:

- **A Grant of Probate:** Required when your loved one has left a will. The court verifies the original will, assets, liabilities, and Death Certificate to confirm the executor named in the will as the rightful applicant and legal representative of the estate.
- **A Grant of Letters of Administration:** Needed if there is no will. The court examines the family tree, assets, liabilities, and Death Certificate to confirm the rightful next of kin under Intestacy Law as the legal representative of the estate. That is why you will act as “administrator” of the Estate (rather than as “executor” of a will), once the Supreme Court issues you a Grant of Letters of Administration.

## Obligations of an Executor or Administrator

The executor or administrator is responsible for managing and protecting all the assets of the estate until they are distributed to the beneficiaries.

The executor or administrator has a duty to avoid conflicts of interest and must act in the best interests of the estate and all the beneficiaries.

Being an executor or administrator comes with legal and compliance obligations. The executor or administrator can be held legally liable for incorrect administration, for example, if:

- Something happens to assets that are uninsured
- Administration takes too long
- A distribution goes against the wishes of the will maker to one beneficiary to the detriment of another

The executor or administrator can be sued by the beneficiaries if they fail to administer

the estate diligently and correctly. In addition to this, the Australian Taxation Office can hold the executor or administrator personally responsible for unpaid tax obligations.

## Things for an Executor or Administrator to consider

Administering an estate can take more than a year of continued effort. The nominated executor or administrator should consider if they can commit to the role before applying for probate or letters of administration. Once probate or letters of administration has been granted, it is not possible to simply opt out as the Executor or administrator.

- Do you have the time to manage all the paperwork required in a timely manner?
- Are you confident you have necessary business, legal and financial experience to create the best outcome for the beneficiaries?
- Will you be able to avoid conflicts of interest and address any likely conflicts?



**The Supreme Court states that currently around 95% of applications are submitted by a trustee company or solicitor.**

# Executor or Administrator Checklist

These are the key tasks the Executor or Administrator should do immediately after someone passes away.

## Personal tasks

- Retrieve the original will
- Obtain death certificate
- Arrange funeral/burial
- Stop urgent services like nursing or grocery deliveries.
- Protect assets (insurance, change locks, keep inventory)



The passing of a loved one can be an emotional time. Don't be afraid to ask for support. For help in your role as Executor or Administrator, call us on **1300 138 672**.

## Estate tasks

- Notify relevant organisations (Centrelink, ATO, banks, utilities, etc.)
- Identify guardian of children (if applicable)
- Assess capacity of surviving spouse/dependents
- Validate the will (check date, status of executors/beneficiaries)
- Plan actions for the estate based on the will
- Confirm the need for probate
- Consider probate 're-seals' for assets in other states or territories
- Obtain death certificate
- Keep records for seven years



Some assets such as life insurance, superannuation and jointly held property may not be part of the estate but will require attention.

## Probate or Letters of Administration tasks

These are the key tasks related to probate and the distribution of assets

### Prerequisites

- Obtain the most recent will and notify parties involved
- Create an itemised list of all estate assets
- Obtain necessary valuations as of the date of death
- Create an itemised list of all estate liabilities
- Confirm jurisdiction with the Victorian Supreme Court

### Prepare probate or letters of administration application

- Advertise the Notification of Intention
- Prepare originating motion affidavit of executor, inventory and any supporting material such as affidavit of capacity or interpreter. Such information to include:
  - Deceased information
  - Executor or Administrator information
  - Will witness details
  - Capacity statements for any parties as required
  - Identify any property owned in another name or names
  - Obtain valuations where required (eg real estate, jewellery, artwork)
- Arrange for court documents to be sworn or affirmed and prepare exhibits such as certified death certificate and original will
- Check the court website to ensure no other application or caveat has been lodged and to complete affidavit of searches
- File documents and pay court fee (the executor or administrator will not usually have access to estate funds until after the grant of probate or letters of administration)



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### After probate or letters of administration

- Determine if real estate needs to be sold, or transferred, and list if needed
- Sell assets where required (continue to insure, etc, until all sold)
- Manage remaining assets (e.g. transfer or close accounts)
- Complete date of death tax return
- Pay liabilities (including preparing final tax returns)
- Determine if an estate tax file number is required
- Complete estate tax returns as required (including any CGT for assets or investment property has been sold)
- Manage any legal disputes and conflicts within the estate
- Distribute estate to beneficiaries (if within six months of probate, consider legal consequences of testator family maintenance (TFM) claims)
- Ensure safe storage of original documents (e.g. return Certificates of Title to safe deposit)
- Identify any trusts that should be established as part of estate administration
- Store all records relating to the administration of an estate for seven years from date of final distribution.



### Considerations for Executors or Administrators

After completing the above, the executor or administrator should consider updating their own will and Power of Attorney, especially if the deceased had a role. Visit [statetrustees.com.au/wills](https://statetrustees.com.au/wills) to get started.



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# How State Trustees can assist

The role of Executor is a demanding one. As Victoria's leading provider of deceased estate administration, our team of experts can help you get the best possible outcomes. State Trustees can assist in three ways:

## 1. We can be nominated as Executor in your will

You can be sure that when State Trustees is named as executor in your will, we'll manage everything professionally and impartially, minimising potential conflict. In some cases, you may not have a family member or friend who has the time or the willingness to fulfil the required duties.

## 2. We can manage the Estate in your place

If you've been nominated as executor or administrator but don't believe you have the time or the willingness to fulfil the required duties, you can choose to renounce the role, electing another person or organisation. State Trustees can complete full estate administration on your behalf.

## 3. We can support you in your role (Executor Assist)

Our Executor Assist Service provides comprehensive support for executors and administrators, helping you obtain the Grant of Probate or Letters of Administration while you remain the legal representative of the estate. We handle grant application preparation, estate tax returns, and beneficiary location, ensuring expert guidance and efficient probate handling. Let us manage the complexities so you can focus on what matters most.



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# Why consider State Trustees

## Victoria's leading Estate Administrator

For over 80 years we've administered more estates than anyone else in Victoria. We've built trust and reliability so you can be confident you're dealing with our expert team. Our size brings you benefits like discounted real estate fees, immediate insurance of assets, safe custody of valuable personal effects, discounted auction rates for the sale of vehicles, and more.

## Comprehensive expertise

We provide in-house support with a range of specialist services like taxation, trusts, genealogy, property, legal services and more. You can be confident you're being guided by a team of experts.

## Unbiased service

The process can sometimes end in an unpleasant experience at such an emotional time. Where there is potential for conflict, be assured that whether we will work in the best interests of all parties involved.



## Dedicated care

Your dedicated estate consultant will handle queries from all people involved, including the beneficiaries of the estate. No need to waste time liaising with multiple businesses and contacts. You can trust that our executor services will be performed to the highest standard and from a neutral standpoint.



State Trustees have been so helpful with my Sisters Estate, it has taken so much stress off of me, and all the staff are respectful and have empathy at a very difficult time. - Karen B



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