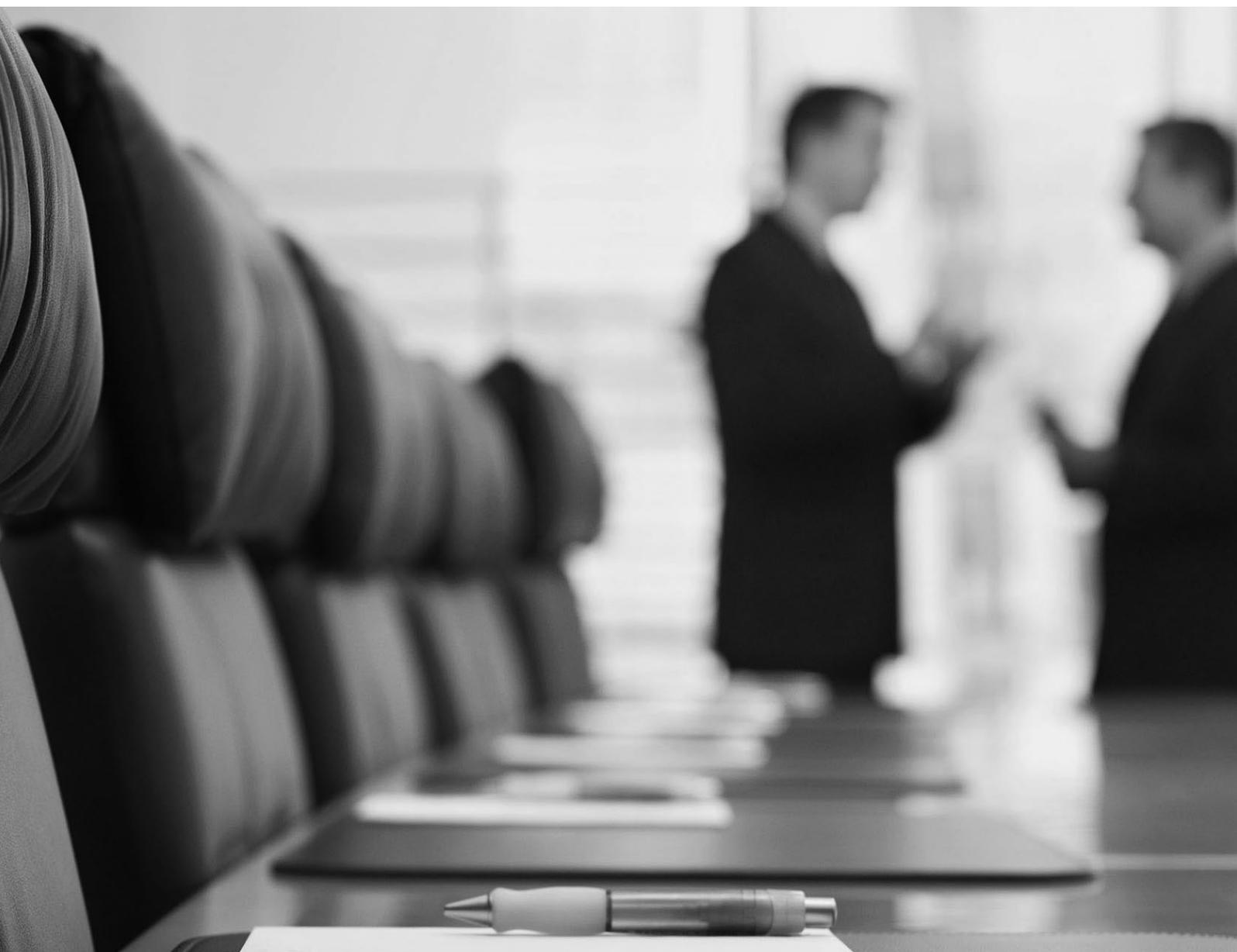


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Advice for **Executors of a Will**

ADVICE FOR EXECUTORS OF A WILL

WHAT IS AN EXECUTOR?

An Executor (male) or Executrix (female) is the person named in a Will to carry out the wishes of the deceased after they have passed.

If you are named as an Executor, you are under no obligation to accept the responsibility. Instead, if a substituted executor has also been named in the Will, the duties can be delegated to them and you will be exempt from all obligations. If no other executor is named, then you can apply to the court to appoint an administrator.

However, if you do choose to accept the role, we understand that acting as an Executor may seem like an overwhelming task – read on to see a step by step process which may help you. Ultimately the take away message? You won't fall into any legal trouble if you act in good faith at all times. Problems only arise if you do not adhere to your duties.

At Hentys, we understand that the first step is always the hardest. Contesting a will can often be a very emotional process, but we've helped so many of clients just like you. We are committed to the interests of each of our clients, applying our hard work, knowledge and experience to achieve the best possible outcome for you and your family.

FOR AN OBLIGATION FREE DISCUSSION, CALL US ON 03 8615 4200

Sympathy where you need it. Success where it counts.

THE DUTIES

In order to execute the Estate successfully you must:

- Organise the funeral and burial/cremation of the deceased
- Notify all beneficiaries named in the Will
- Manage the property or goods left in the Will to:
 - Take care of any business interests
 - Safeguard any income
 - Invest money not needed immediately
 - Collect any valuables
 - Insure all property
- Value the estate and keep a list of the valuations
 - Provide the court with an inventory of the Estate's assets which includes:
 - Cash
 - Business interests
 - Personal effects
 - Securities
 - Real Estate
 - Sale of property
 - Debts due
 - Debts owing
- Obtain authority to administer the estate
 - Apply for a grant of probate
- Take all necessary steps to distribute the Estate according to the wishes of the deceased as written in the Will

STEPS IN EXECUTING

- The first step in executing the Estate is always obtaining the death certificate. As Executor of the Estate you are responsible for funeral and burial arrangements and costs of such will be paid out of the Estate. The first question a funeral home will ask is how many copies of the death certificate you require. Many experts suggest ordering twice as many as you think you will need. This is because you will need copies of the death certificate for example when notifying financial accounts, life insurance and if filing for a final tax return.
- The next step is to locate the Will. Whoever informed you that you are Executor will likely know the location of it. You will need a copy of the Will for probate and also so you know who the beneficiaries are that need to be informed.
- It is now that we suggest you seek legal advice. Once you have the Will, you'll have an idea of how complicated the process of administering the Estate will be. To avoid any mistakes, it is best to contact a lawyer who will advise on the legal steps to take. In addition, generally speaking if you do try and apply for probate yourself, it will take a lot longer and in the meantime all the assets are tied up because nothing can happen until Probate has been granted. Seeking legal advice is especially important if you find out that someone wants to Contest the Will. See our page of Defending a Will – Mediation for more information on what to do if you find yourself in that situation
- Your legal representative will most likely ask you how much the Estate is worth, so the next step will be to locate and protect the assets. This includes providing documentation on insurance, investment accounts, bank accounts and real property. All this information will be needed when preparing probate documents.

- It will also be your responsibility to pay the deceased's debts with money that will come out of the Estate. If the deceased did not keep a detailed accounting system, or have their own accountant – a great place to start is with regular mail and email. Whilst searching for clues look for contracts, deeds, financial statements and bills, even tax returns. The bank will assist in opening an account in the name of the Estate or Trust if required, so that you can pay bills and accept deposits.
- Last, don't rush the process! It can be lengthy, taking months to even years from the time of the deceased's death to the day where the assets can gradually be distributed...Especially if there has been a Will contest. Executing a Will can be complicated which is why it's always a good idea to get advice from a lawyer. The deceased's estate will cover reasonable fees charged for this.

So please, if you have recently found out that you are Executor of an Estate, or simply want some extra information, do not hesitate to contact the team at Hentys Lawyers today.

Hentys | Lawyers

Hentys Lawyers has over 25 years of experience in Will Dispute cases. Our dedicated team of Will Dispute specialists are committed to providing you with outstanding legal service and emotional support during the entire dispute.

At Hentys, we care about our clients. We know that in hiring us, you are putting your trust in our hands to deliver the results that you need.

Our team also has the in-depth understanding of these situations to provide you with further emotional support.

We build a trusting relationship with our clients, that's why we are Victoria's Will Dispute Experts.

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