

Guide for Executors & Administrators



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Guide for Executors & Administrators The death of a close relative or a friend is always distressing. This Guide explains what needs to be done and is intended to ease the burden of those responsible for sorting out the affairs of the person who has died.

✦ The legal requirements

When someone dies, everything held in his or her sole name is frozen and cannot be dealt with. Banks, Building Societies, Insurance Companies, etc, will not pay out money until they are provided with proof that they are paying it to someone properly authorised to receive it. The proof required is called the Grant of Representation and where the deceased left a Will, those named as Executors apply for a Grant of Probate. Where there is no Will, that is where the deceased died intestate, the next of kin who applies for the Grant is called an Administrator. The duties of Executors and Administrators are much the same.

✦ Dealing with possessions

1. Obtaining the grant

- a. We shall ask you to supply details of everything the deceased person owned along with details of his debts and liabilities. Please bring us all the deceased's official papers – Life Policies, Share Certificates, Building Society Passbooks, Deeds and any other miscellaneous documents. Full details and valuations may have to be given to the Inland Revenue.
- b. When all facts are known, we prepare for you a form called an Oath. The Executors or Administrators have to sign the Oath and swear before an independent Solicitor that the contents are correct and that they will properly administer the Estate. The Oath together with the Will (if any), is then sent to the Probate Registry for processing. If everything is in order, the Grant of Probate or Letters of Administration will usually be issued in about two to three weeks. It is also necessary for Executors or Administrators to submit certain details relating to the Estate on a separate return to HM Revenue and Customs

2. Having received the grant

When we receive the Grant, we send copies to Banks, Building Societies, Insurance companies, etc, to collect in the money. It will now also be possible to sell or transfer the deceased's house or any other land and we will prepare the documents to do so. When sufficient money is available, we will first pay the funeral account and other bills. Any cash legacies may also be paid to whomever is entitled.

3. Will there be any tax to pay?

- a. It is the duty of the Executors and the Administrators to complete a Return of the deceased's income to the date of death and pay any income tax due. Income Tax is also payable on any income received by the Estate during the period of administration and details must be supplied to the Inland Revenue. We normally deal with the Tax Returns on behalf of the Executors and Administrators. Unfortunately, the Inland Revenue can take a long time to reply to our letters and this often causes delay.
- b. Apart from Income Tax, there are other taxes which need to be considered. On death, no Capital Gains Tax is payable. On larger Estates (over £325,000 net) Inheritance Tax is payable.
- c. To establish the amount of Inheritance Tax payable, full valuations of all assets and liabilities have to be supplied to the Inland Revenue. In the case of land, it may be necessary for us to negotiate with the District Valuer who is appointed by the Inland Revenue. This can be a lengthy procedure and will often cause delay in winding up the Estate.

4. Completing the administration

- a. When everything has been done, we prepare Estate Accounts setting out what has happened to all of the deceased's property and showing what is left for division among the beneficiaries. These accounts are sent to the Executors or Administrators for approval before anything is paid out. If the administration is likely to take a long time, payments can be made to beneficiaries on account of their entitlement as soon as sufficient funds are available.
- b. While we have to take our instructions from the Executors or Administrators, we do at all times try to take into account the wishes of the beneficiaries and if requested, offer them advice.
- c. Beneficiaries will usually have the choice of taking assets such as a house or stocks and shares rather than the money resulting from the sale of these assets.
- d. When the Estate Accounts have been approved by the Executors or Administrators, we send copies to the beneficiaries with cheques for the final amount due to them.

5. How long will it take?

It is difficult to be precise about this since so much depends on how quickly our letters are answered, particularly where the Inland Revenue is involved. It should be possible to obtain a Grant of Probate or Administration within four to six weeks where the Estate is straight forward. We can then deal with most of the cash assets. This means that bills can be settled and very often payments on account made to the beneficiaries. Where property has to be sold, it may take some time to find a suitable purchaser and until then, the value

will not be known for certain. If the price on sale of any asset is different from the valuation submitted to the Inland Revenue, tax adjustments may have to be made. This again, may cause delay.

6. How will I know what is happening?

We shall, of course, consult you on all matters of importance and will keep you fully informed. If you think that nothing much is happening, it will usually be because we are waiting for the Inland Revenue to reply to us or for a purchaser to be found for a property. Please do not hesitate to contact us if you feel worried about anything at any time. If you wish to call in to see us, it is a good idea to make an appointment to avoid being kept waiting.

7. Should I make a will?

It is most desirable for everyone to make a Will however modest their circumstances. Most people are wealthier than they think, particularly if they own a house. It is a simple inexpensive procedure. If you are interested, please ask the person acting for you.

PLEASE NOTE: Homemade Wills are dangerous and all too often make extra and not necessarily welcome work for Solicitors!



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Contacting us

Telephone enquiries are always welcome. Your enquiry will be dealt with professionally and efficiently by a member of our team. Alternatively you can contact us by email or visit our website for more details.

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The information in this leaflet can do no more than set out guidelines. You should not rely upon any of the matters stated and Thomas Flavell & Sons accepts no liability should you choose to do so.

For full advice or further information on this or any other related matters contact our Estate Admin team on 01455 610747 or email us at law@thomasflavell.co.uk

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