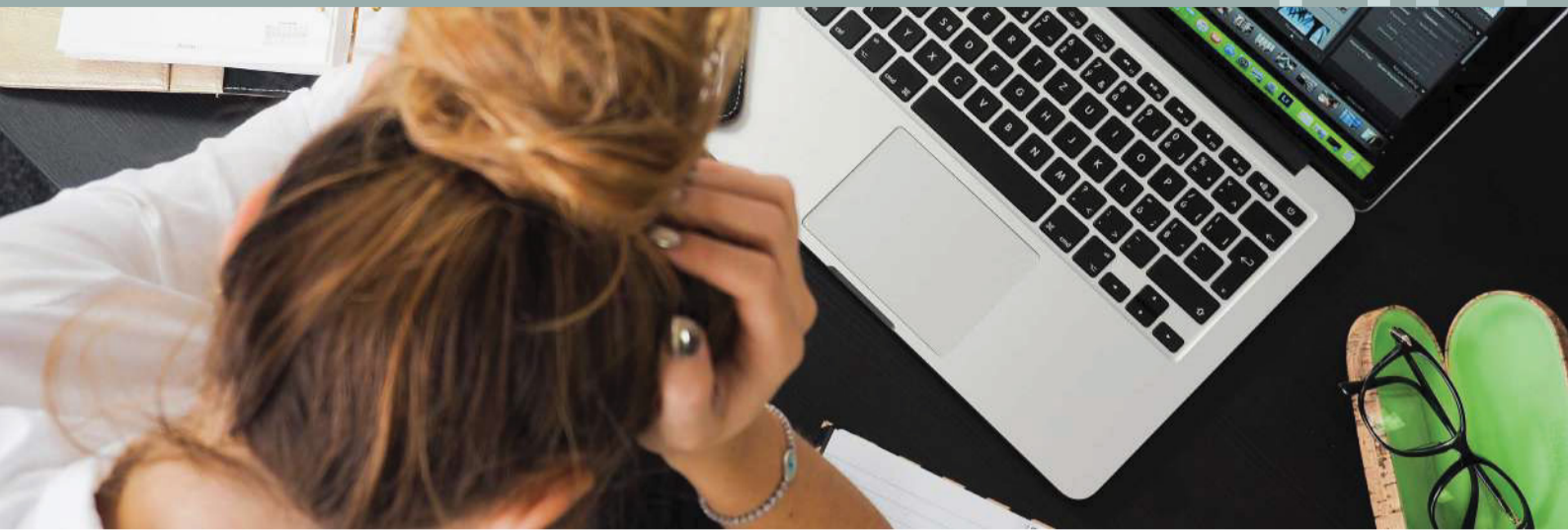


Fact Sheet

I am an executor - what is my role?



What is an Executor?

When a person makes a Will, they nominate a person or a few people to be the executor or executors of their estate. The executor is responsible for making sure that their wishes are carried out in accordance with their Will.

When does the Executor role commence?

The executor's role commences as soon as the person passes away.

If I am named as an Executor, do I have to take on the role?

Your appointment as an executor is not compulsory and you are able to decline (renounce) the role. An executor must make this decision from the beginning and refrain from intermeddling with the estate, otherwise you may not be able to refuse to act as an executor.

What is the role of an executor?

As an executor you are responsible for administering the deceased's estate. You must also act prudently and diligently.

An executor's responsibilities include:

- Applying for a Grant of Probate;
- Gathering the estate assets, paying liabilities and managing the relevant tax affairs;
- Preserving and maintaining the assets of the estate;
- Defending the estate during any legal proceedings; and
- Distributing the estate in accordance with the deceased's Will.

Can Executors be paid?

Unless the deceased's Will contains a clause granting payment of commission, executors are not entitled to be paid.

If an executor wishes to claim commission from an estate they can make an application to the Supreme Court of Victoria but they will be required to demonstrate their "pains and troubles" of administering the estate.

Alternatively, the executor can obtain fully informed consent from all the beneficiaries for the executor to take commission.

What happens if Executors breach their duties?

If executors fail to do the right thing or breach their duties, executors can be held personally liable. In certain circumstances, executors can be personally liable for unpaid taxation of the estate.

If executors are unsure about their obligations and duties, it is essential that they obtain legal advice.

How can Hunt & Hunt help?

There are numerous obligations and responsibilities being an executor and often it can be overwhelming. Our experienced Wills & Estate lawyers can assist you in discharging your executor duties and provide you with expert advice.

Contact Us today

With over 40 years' experience, our team offer new clients a complimentary consultation of up to 30 minutes to get to know and understand you and your needs, to allow us to provide you with the best advice regarding your circumstances.

Contact us at willsandestates@huntvic.com.au or on (03) 8602 9202.

Book your free 30 minute consultation

We are expert at finding options for you throughout the estate administration process



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