

## WHAT ARE MY RESPONSIBILITIES AS AN EXECUTOR?

### **Arranging the Funeral**

Whilst the deceased wishes should be followed, the Executor has complete discretion as to how the body is disposed of. The Executor is liable for the funeral expenses (being reasonable given the value and size of the Estate) with a right to be indemnified out of the estate.

### **Ascertain & Recover the Estate assets.**

The Executor must thoroughly examine the deceased's records, including all property titles. Most Wills contain a direction to the Executor to sell, call in and convert the whole Estate as soon as practicable. In some cases these actions must be postponed until certain conditions have been met.

### **Ascertain and Discharge the liabilities.**

Again the Executor must thoroughly examine the deceased's records. Liabilities can only be discharged if there are sufficient funds available. Creditors should be advised of all delays.

### **Keep proper Accounts and Records.**

The Executor must account to the beneficiaries what assets have realized and what liabilities have been paid. This information will be required for Taxation purposes, and in the event that his/her actions are challenged.

### **Avoid a Conflict of Interest.**

The Executor has a duty to the beneficiaries to act in their best interests at all times. He/she must avoid a conflict of interest between his/her own interests and that of the beneficiaries.

### **Apply for a Grant of Probate.**

This may be necessary if the assets are valued at more than \$15,000.00. In some cases the Executor cannot deal in the estate's assets until probate has been granted.

### **Distribute the Estate to the Beneficiaries.**

If one or more of the beneficiaries are under age, the Executor must hold their share of the Estate on trust. The Executor is then "transformed" into a trustee and is subject to the duties and obligations imposed by the Trustee Act.

### **Should I use a Solicitor?**

If in *any* doubt as to what to do, you should use a solicitor who is experienced in administering Estates and the complexities of the various laws and responsibilities of an Executor.

**For further details please contact Adrian Riccioni, Barry Northfield or Alana Gorton at Lilydale on 9739 7377 and Frank Lamari at Carlton on 9344 1700.**

*DISCLAIMER: The above information is general in nature and believed to be correct at the time of writing. All matters should be discussed fully with your solicitor before any action is taken. No responsibility will be accepted by this firm for any loss or damage suffered by anyone as a result of the information contained above.*