



Duties and  
Responsibilities of an  
**Executor/  
Administrator**

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## What is an executor?

An executor is a person appointed by a will maker to administer an estate. This person will manage the deceased's affairs upon their death. If a woman is appointed as executor, the term used is executrix.

If someone dies without a will, the courts appoint an "executor" to administer the estate, and that person is called an administrator, or if female, an administratrix. This document will refer to the responsibilities of an executor, but the responsibilities are the same for those named as administrators/administratrixes.

It is encouraged to have a discussion with your executor about your wishes upon your passing. This discussion may include your funeral wishes, your wishes for your children's care, and other issues that you would like your executor to better understand how to carry out your wishes upon your death.

## What are the duties of an executor?

Being an executor can be time consuming. There are several tasks required to settle an estate. This may include working with lawyers, accountants, bookkeepers, and/or realtors. An executor should keep meticulous notes, detailed accountings, and keep all paperwork organized. Even calls from beneficiaries seeking to receive their inheritance may be time consuming and taxing. Being an executor can be a thankless job in many cases. That said, the task can be remunerated through the Courts. It is goodwill to assist someone with this demanding responsibility. We should keep in mind that we will all require the assistance of someone to be our own executor one day.

## What are important considerations when choosing an executor?

The executor you choose in your will to administer your estate:

- i. Should be trustworthy;
- ii. Should be financially responsible;
- iii. Should be organized and detail oriented;
- iv. Ideally resides in the territory;
- v. Should be over the age of 19; and,
- vi. Should have good credit, which demonstrates an ability to manage finances.

## Does the executor need to agree to be your executor? What happens if they change their minds?

There is no legal requirement that states that your executor needs to consent to be named in a will as an executor; however, it is highly encouraged to ask their permission as the role of executor can be demanding and time consuming.

If after your death, an executor decides they no longer want to be in the role of administering the estate, they can choose to renounce or resign from their role. It is prudent to name a second executor in case the first executor named is unable to fulfill their responsibilities. Sometimes, executors can be named to act jointly. This means that they must work collaboratively and agree on all decisions, which can sometimes be challenging. You should discuss your options with your lawyer to ensure you are making the best decision for yourself.

## What are the duties/ responsibilities of an executor?

After the will maker's passing, the executor's tasks include:

- i. Making funeral arrangements;
- ii. Locating the will of the deceased;
- iii. Apply for the death benefit through Canada Pension Plan;
- iv. Informing the following governmental agencies, if required:
  - a. Employer;
  - b. Canada Revenue Agency;
  - c. Passport Program;
  - d. Service Canada; (social insurance number cancellation, Old Age Security, Canada Pension Plan)
- v. Obtain a death certificate through Vital Statistics, Department of Health and Social Services;
- e. Other organizations that may be involved with the deceased: Veteran's Affairs, Worker's; Compensation Board, Employment Insurance Benefits, Income Support, Canada Child Benefit, Canada Workers Benefit, Goods and Services GST credit, etc.;
- f. Financial institutions;
- g. Utilities & services such as hydro, gas, water, telephone, internet, and cable;
- h. Memberships and subscriptions;
  - i. Canada Post if the executor requires mail forward; and,
  - j. Indigenous Services Canada, if the deceased was a Status Indian.

- vi. Take control of the assets: gather and account for all the deceased's possessions, prepare an inventory list, and value the assets. The executor needs to protect them as they are accountable to the beneficiaries (this may include a residence, vehicles, recreational vehicles, as well as the deceased's other belongings). The executor may want to ensure that the property has insurance policies for certain items such as a house, vehicle, recreational vehicles, etc.;
- vii. If the deceased owned firearms, contact the RCMP or fill out Form 6016 for the transfer of firearms to the estate while it is being settled;
- viii. Open a bank account in the name of the estate of the deceased;
- ix. List and find all debts/liabilities and any claims against the estate;
- x. Locate beneficiaries and inform them of the passing of the deceased, if they are not already aware;
- xi. Notify all creditors, banks, insurance policies providers if there are insurance policies;
- xii. Contact a lawyer for assistance if required. Also, the executor may need legal assistance to file the appropriate court documents to probate the will, if necessary;
- xiii. File and pay taxes with Canada Revenue Agency (and hire an accountant if necessary);
- xiv. Liquidate assets to pay the deceased's debts if necessary;
- xv. Provide the beneficiaries with an accounting of the estate financials;
- xvi. Obtain releases from the beneficiaries;
- xvii. Distribute any residue of the estate among the beneficiaries; and,
- xviii. If there are dependants, ensure they are provided for if the estate permits. (The financial support of dependants may have priority over paying out beneficiaries.)

## What should your executor know?

- i. You should provide your executor with a copy of your will, and inform them as to where to locate your original will. The original will is required by the Courts or the Minister, and should be kept in a safe location (for more information on wills, please refer to the hand-out on wills);
- ii. You should have a “death binder” prepared. A death binder should contain copies of:
  - a. bank statements;
  - b. investment account statements;
  - c. Proof of ownership for assets; (i.e. vehicle registration)
  - d. liabilities/debts;
  - e. credit card statements; (especially those that have insurance coverage because there are limitation dates i.e. 30-60 days to make insurance claims that pay outstanding credit card balances)
  - f. social insurance number for yourself, spouse and your children;
  - g. your birth certificate and the birth certificates for your spouse and children;
  - h. your marriage certificate and/or divorce decree and/or separation agreement;
  - i. Employment and past employment personal identification numbers (pensions, superannuation, etc.);
  - j. Insurance policy statements;
  - k. Property details (lot, block, plan, lease number and/or title, insurance);
  - l. Account information for utilities and other service accounts you may have;
  - m. Information/passwords for digital assets;
  - n. Passwords for accounts that the executor would need (your death binder containing this information should be kept in a safe location); and,
  - o. Location of keys for any vehicles, safety deposit boxes, mailboxes.

## **What are other considerations that the executor would need to know?**

If the deceased was retired, disabled or contributed to Canada Pension Plan through payroll deductions, they may be entitled to benefits.

The Canada Pension Plan (CPP) death benefit is a one-time payment, payable to the estate or other eligible individuals, who paid for your funeral on behalf of a deceased CPP contributor. The maximum benefit payable is \$2,500.00.

If the deceased had a spouse, the spouse may be eligible for a Canada Pension Survivors benefit payable monthly.

If the deceased had children who were under the age of 18, the survivor can apply for child benefits, which are paid monthly.

If there are children who are between the age of 18 and 25 years of age and attending school, they may be eligible for student benefits and must apply for that benefit on their own every year and provide proof of school attendance.

Further information regarding these benefits can be found at [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca).

The deceased may have also contributed to other retirement insurance policies such as Superannuation, Municipal Employees Benefits, Canada Life etc. and those may also have death, survivors and child benefits and should be investigated.

## **What if the deceased was a Status Indian?**

The estates of Status Indians are dealt with differently than the rest of the residents of the Northwest Territories. If you are the executor for a deceased that is Status Indian and that lived on reserve, contact Indigenous Services Canada. If the deceased was or may have been a Status Indian, it is important to contact Indigenous Services Canada at **1-867-445-2929**. You may be able to receive a Grant of Probate or Administration which will give you the same authority as a Letter of Probate or Administration through the Supreme Court.

It is encouraged to contact Indigenous Services Canada if the deceased was First Nations to ensure the proper process is being followed. If the Minister issues a Grant of Administration, the responsibilities of the administrator are the same as the responsibilities of an executor.

## **What does not form part of an estate?**

Property that is owned jointly (in two or more names) usually does not form part of an estate, for example: joint bank accounts, joint investments, joint vehicles and property held in joint tenancy (if the property is held with someone who is still alive). Also, if the deceased is First Nations, land or buildings owned by a First Nations band or the federal government do not form part of the estate.

Registered assets such as Registered Retirement Savings Plan, TFSA, RRIF may not usually form part of the estate if they have named or designated a person/beneficiary to receive the investment as they usually have beneficiaries listed. If the beneficiary listed is “my estate”, then it will form part of the estate.

## **How long does it take to administer an estate?**

It can take several years to administer an estate, the average being two years.

## **What are careful traps or issues for executors to be weary of to avoid any personal liabilities when administering an estate?**

There are many responsibilities that rest on the executor, some that may leave the executor personally liable if they do not fulfill their responsibilities appropriately. Here are some potential issues that the executor needs to be cognizant of:

- i. The executor must follow the terms and clauses of the will. If they are not sure, they should contact a lawyer for legal advice;
- ii. They must NEVER borrow money from the estate, and they need to always keep the estate’s finances separate from their own;

- iii. They must ensure they pay the correct amount to the beneficiaries;
- iv. They must ensure they pay the proper amounts for any funeral expenses and any debts/liabilities prior to paying out any beneficiaries;
- v. They must never include payments inadvertently made by any organizations after the death of the person, for example, Old Age Security, Canada Pension Plan, Employment Insurance benefits, Workers' Safety and Compensation Board, Superannuation, Income Assistance Program, Indigenous band payments, or other payments the deceased has received after their death;
- vi. They must never prefer one creditor over another, unless they are a preferred creditor according to legislation;
- vii. They must not omit or inadvertently miss a beneficiary. The executor should keep notes of their efforts to identify and locate potential beneficiaries; If they are not sure who constitutes a beneficiary or heir, they should seek legal advice;
- viii. They must be responsible and prudent if they chose to invest any estate assets;
- ix. If assets are to be sold, they should be sold in a timely manner to ensure the best possible outcome;
- x. If cases where there would be a potential lawsuit, for example motor vehicle car accidents either prior to or because of the cause of the deceased's death, wrongful deaths, etc., the executor should seek legal advice and keep detailed notes of any advice received. There may be possible insurance settlement payouts that would form part of the estate (i.e. no fault benefits);

- xi. They should keep any records/ receipts organized and maintain detailed and accurate records of their work in the administration of the estate;
- xii. They should not pay any advances to any beneficiaries unless they are sure there has been an accurate accounting done of the estate, and that the estate can afford to pay out any advances;
- xiii. If there are any payments that need to be made for dependants, for example, spouse and/or children, they must ensure they are making the appropriate payments and that there is enough money in the estate to do so;
- xiv. If they are dependants, even adult dependants, they should inform the Public Trustee and Public Guardian if needed;
- xv. They must keep detailed receipts for any expenses they have incurred to be reimbursed to them; and,

- xvi. They must keep an inventory of property and debts (at the beginning and end of the accounting period), a statement of property and money received, statement of property distributed and money paid out, any debts or expenses incurred, and reconciliations if required.

If an executor improperly administers an estate, they may be found personally liable for damages for misconduct and/or negligence. They should always act honestly and act in their best of their abilities to ensure that the estate is managed appropriately. Managing and administering an estate can feel overwhelming at times; however, an executor can seek professional help if required. An executor should always do their best. If they are unable to fulfill their duties, they should seek legal advice as they may be able to have someone replace them as administrators of the estate.

## **What happens if the deceased owned property?**

If the deceased owned land on reserve, the executor will need to contact the band office to be informed of what documents are required. The executor may need to contact a lawyer who practises in real estate law.

## **What happens if the deceased is a beneficiary or potential beneficiary of a class action lawsuit or any other legal settlements?**

The executor can make an application on the deceased's behalf. The claim will be processed. The organization may ask for further evidence and/or information before making a decision. If the deceased is deemed to receive a payout, the organization will send a cheque made payable to the estate of the deceased. This can be a long process; therefore, the estate may take several years to be finalized.

## **What if there is no executor named in your will?**

The court will need to appoint an administrator to take over the role of executor, which will be called an administrator or administratrix if the person is a woman. This court document is called a Grant of Administration.

## **What if there is no one to administer the estate of a deceased?**

The Public Trustee of the Northwest Territories can be appointed by the Court to administer the estate. The Public Trustee of the Northwest Territories may administer estates where the only beneficiaries are children; the beneficiary is a spouse and a senior citizen (over the age of 65), if the beneficiary is mentally incapable, or if there are significant assets in the estates and no next of kin can be found.

## What if you are an executor and you are feeling overwhelmed?

The responsibilities required from an executor can be demanding; furthermore, you may be experiencing grief from losing your family member or loved one. If you are feeling overwhelmed, it is important to reach out and seek assistance. You can seek the services of a qualified lawyer, bookkeeper, accountant and/or another professional if these services are beneficial to you. If your well-being is suffering, you can reach out to a qualified mental health counsellor/therapist or psychologist, or even your family doctor. Other members of the community may be able to help you sort out your feelings such as a religious leader, a respected elder, a friend or a family member that you can confide in. If you notice that your moods have changed, changes in your appetite or sleep patterns, this may be a sign to reach out for assistance during this difficult and challenging time.

It is important to take care of yourself first. Be mindful of your health and your own personal life first. If you think you could benefit with help dealing with grief, you may also check in your community for grief support groups and/or programs.

### Definitions:

**Administrator:** A person appointed by the Minister or the courts to administer the estate of someone who has passed. They will manage the deceased person's estate. If this person is female, the term used is administratrix. For ease of reference, the term administrator is used; however, the writer reminds the reader that the female version is executrix.

**Administratrix:** Female term for Administrator.

**Assets:** Property owned by the deceased. This may include cash, bank accounts, personal effects (art, jewelry), earnings, pensions, tax and disability benefits, bonds and investments, vehicles, settlements, land and buildings owned.

**Beneficiary:** A person who inherits from the estate of the deceased.

**Bequest:** Property disposed of in a will.

**Codicil:** A supplemental document modifying or adding to a will.

**Estate:** All the property, real and personal, owned by a person at the time of their death.

**Executor:** The person or persons named in the will responsible for the administration and distribution of the estate of the deceased in accordance with the will. If this person is female, the term used is executrix. For ease of reference, the term executor is used; however, the writer reminds the reader that the female version is executrix.

**Executrix:** Term used for female version of executor.

**Guardian(s):** A person or persons named in the testator/testatrix's will to be responsible for their children if they pass away while the children are minors. It may not be legally binding, depending on if the other parent is alive and able to care for the children. The Court will, however, take into consideration the wishes of the parent.

**Heir:** A person who may inherit from the estate of the person who died intestate (without a will).

**Indian:** As defined by the *Indian Act* means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian.

**Intestate:** The estate of a person dying without a valid will.

**Issue:** The term used to describe the testator/testatrix's children and their direct descendants, such as grandchildren or great-grandchildren.

**Minister:** The Minister of Indigenous Services Canada.

**Property:** Property includes all those things and rights, which are the object of ownership and property consists of land, or anything attached to or part of the land, such as a house. All other property, such as stocks, insurance and jewellery, is called personal property.

**Spouse:** the meaning of spouse is defined by the *Family Law Act* for the purposes of this publication: “spouse” means a person who (a) is married to another person, (b) has together with another person entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Act, or (c) has lived together in a conjugal relationship outside marriage with another person, if (i) they have so lived for a period of at least two years, or (ii) the relationship is one of some permanence and they are together the natural or adoptive parents of a child.

**Status Indian:** People who are registered under the *Indian Act*.

**Testament:** Another word for a will. These words are synonymous.

**Testator:** The person making a will is called a testator, or testatrix if female. For ease of reference, the term testator is used; however, the writer reminds the reader that the female version is testatrix.

**Testatrix:** Female person making a will.

**Trustee:** A person that holds property for someone else (i.e. the deceased). A trustee may hold property for a minor until the child reaches the age of majority or the conditions stated in a will.

## **Applicable Legislation:**

*Family Law Act, SNWT 1997, c.18*

*Intestate Act, R.S.N.W.T. 1988, c.8 (Supp.)*

*Indian Act of Canada (R.C.S., 1985 cl-5)*

*Indian Act of Canada Regulations (C.R.C., C.954)*

*Judicature Act, Estate Administration Rules, R-123-2016*

*Trustee Act, RSNWT 1988, c.T-8*

*Wills Act, R.S.N.W.T. 1988, c. W-5*



Renée Fougère, B.A., J.D.  
Lawyer

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Visit [reneefougerelaw.ca](http://reneefougerelaw.ca) for copies.



[renee@reneefougerelaw.ca](mailto:renee@reneefougerelaw.ca)  
[www.reneefougerelaw.ca](http://www.reneefougerelaw.ca)  
867-688-9589

Toll Free Number: 1-877-908-6731

P.O. Box 1252  
Yellowknife, NT X1A 2N9

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