

Payment of debts by executors in Queensland

University of Queensland Press - Obligations Outstanding at the Time of Death



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Papers (University of Queensland. Faculty of Law) -- v. 1, no. 3.

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of Executors

Wilson J set out the causes of action available to an aggrieved beneficiary or creditor in detail. In either case, the order is binding upon the personal representative of the deceased.

of Executors

The current high water mark for commission awards is around 3% for complicated matters where substantial work has been done, with many cases awarding a lower or no commission in cases where there are lengthy delays, lack of communication and a combative attitude towards beneficiaries 3.

Obligations Outstanding at the Time of Death

Entitlement to commission The starting point is that there is no requirement to pay an executor for acting in that role. These liabilities are met only by the assets of the deceased's estate and if those assets are insufficient, the estate can be administered in bankruptcy.

The Roles within Administration of Estates

Action for an account The duty of the legal personal representative to render an account is reinforced by Rule 645 Uniform Civil Procedure Rules 1999 which allows any person beneficially interested in the estate to seek an order for the examination and passing of the legal personal representative's accounts. In this case, there is often an expectation that the executor will be paid for their services.

Problems & Pitfalls for Executors: Duties & Liabilities

If the personal representative fails to provide adequate information or has not acted diligently, the beneficiary may complain to the Supreme Court s.

Obligations of Executors under a Will

Legal action against executors The court may make orders against an executor who neglects to perform their statutory duties. The court held that the executor has a duty to keep proper accounts and to render them within a reasonable time when requested by a beneficiary. Exhibit on oath a full inventory of the estate In Queensland, there is no need for a legal personal representative to file an inventory of the estate in the registry of the Supreme Court as part of the process to obtain a grant of probate or within a certain period after the grant has been issued.

Obligations of Executors under a Will

Time limit for distribution Personal representatives do not have a time limit within which to distribute the estate; although, the administration of the estate should be undertaken in a timely manner.

of Executors

Interest is not paid on specific legacies. The Court held that pursuant to s6 4 Succession Act 1981 Qld these powers include the powers in relation to the administration of trust property under the Trusts Act 1973 Qld , including under s80 of that Act to appoint a new trustee when it is expedient to do so. This allows the Court to inquire over the entire course of conduct of the legal personal representative or examine more closely a particular aspect of the estate's administration.

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