

HERE

when you need us



CARE WHEN YOU
NEED IT MOST

 perpetual guardian

Our priority is to make this as comforting as we can.

We help relieve stress, by providing a professional and compassionate service.



Why use Perpetual Guardian?

- We are an expert trustee company built on more than 130 years of experience in establishing and managing Trusts and estate planning.
- We provide continuity (unlike an individual, we will not die, become ill or be absent from New Zealand when needed)
- We will be here when you and your family need us.
- Perpetual Guardian staff are professionals with extensive experience in their areas of expertise.
- We are independent, and will act objectively and impartially when dealing with family members.
- We will deal with your affairs promptly and efficiently.
- We offer a full range of associated services, including Trusts, Will preparation, and more.

What is Estate Management?

At some stage, we all experience the death of someone near and dear to us, but few of us are fully aware of the estate administration process. This can be particularly difficult if you are called upon to assist with the many matters that require attention following a death. This guide details what is involved in the Estate Management and Administration process.

WHAT IS ESTATE ADMINISTRATION?

In short, Estate Administration is the process of carrying out the wishes you lay out in your Will by making sure your estate is distributed effectively and to the right people. This is done by an executor who you name in your Will.

Your estate is made up of all your assets – things like personal possessions, bank accounts, property, life insurance and KiwiSaver. It also includes funeral expenses, taxes, debts and other so-called liabilities.

Who can be your executor?

When you give instructions for your Will, you have to choose an executor. They're the ones legally responsible to administer your estate, so it's an important choice.

You can appoint one or more people to act as executor – the only restrictions are that they need to be over 20 years old and of sound mind.

Some common options are your partner or spouse, family members, friends or your Lawyer or Accountant.

You can also appoint a trustee company as your executor, such as Perpetual Guardian.

It is often useful to appoint a trustee company as a successor attorney in case the named executor does not want to (or is unable to) act.

The Estate Administration process

LOCATING THE WILL

After the death of the Will maker, one of the first duties of the executor is to locate the last Will.

OBTAIN AUTHORITY TO ACT

Once the last Will has been located, the executor must obtain authority to administer the estate.

In most cases, an executor or administrator applies to the High Court for a Grant of Administration. A Grant of Administration is a type of court order which recognises a Will as an authentic document and gives the executor the legal authority to deal with the deceased's estate and distribute according to the instructions in the Will.

Until this is issued, no assets can be touched, or distributed to the beneficiaries, bank accounts cannot be closed and no money can be made available for the initial costs the executor may have to cover (such as funeral expenses).

If your executor is Perpetual Guardian, we can provide short-term funding to cover these expenses until the Grant of Administration is obtained, assets are sold, or bank accounts are closed.

Acting as the executor of a Will is a time-consuming and detailed job. Perpetual Guardian can act as executor either on its own, or jointly with a family member to provide them with access to professional help and advice.

INFORMAL ADMINISTRATION

If certain types of financial assets (eg; money in bank accounts, Kiwisaver) are under \$40,000 then a family member can apply to the institution concerned to informally administer the estate.

THERE ARE THREE COMMON GRANTS OF ADMINISTRATION:

Election to administer

As a trustee company, we can elect to administer the estate when:

- The assets are less than \$120,000,
- There is a Will and we are listed as sole trustee; or
- There is no Will.

This helps keep administration costs to a minimum for smaller estates.

Probate

Otherwise, if there is a Will, the executor must make an application to the High Court for a Grant of Probate. We can prepare the application for you and file it in the Court.

Letters of Administration

The final type Grant of Administration can be obtained by Letters of Administration. There are two instances where Perpetual Guardian can apply for Letters of Administration:

- Where there is no Will, an application must be made to the High Court for Letters of Administration. We can do this and administer the estate with instructions from the next of kin; or,
- Where there is a Will, but the named executor would prefer not to act as such, we can be appointed to administer the estate.

DEALING WITH THE ESTATE

There are many steps involved in dealing with the assets and debts of an estate.

Some estates will require a significant amount of work compared to others.

The work involved includes:

Notification

Notifying all relevant organisations (e.g. employer, banks, insurance companies) of the death. This enables them to freeze accounts and redirect correspondence.

Assets and liabilities

Next, an inventory of assets and liabilities will need to be compiled for the beneficiaries at the early stages of administration.

Dealing with the assets

Once a Grant of Administration is received, the assets can be dealt with. This includes closing bank accounts, redeeming investments, collecting proceeds of any life insurance policies and, if necessary, selling property. All assets are transferred into the name of the administrator and then sold, collected or transferred to the beneficiaries when a distribution is made.

Payment of debts

When sufficient cash becomes available from the collection or sale of assets, the debts of the estate will be paid.

Typically these are the funeral account, outstanding credit card balances and hire purchases.

Notice to creditors

A notice in the local newspaper needs to be published asking for creditors to send details of any accounts that were outstanding at the date of death within a month of the advertisement.

Taxation and accounting

Matters relating to tax often take the longest time to deal with in an estate. File any required personal tax returns to date of death and ensure that any tax is paid. Any required tax returns for the estate itself from date of death to final distribution also need to be filed.

If Perpetual Guardian is executor, we will also prepare financial statements for the estate and provide copies to the beneficiaries.

Jointly owned assets

Jointly owned assets do not form part of the estate and will pass to the surviving

owner(s). The relevant authorities need to be notified and transfers from joint names to the survivor(s) arranged, should this be required.

Distribution

There are a number of laws which affect the ability of a trustee to make a distribution of an estate. These laws deal with the rights of persons to claim against the estate as a creditor, a dependant, a relative, or someone who has been in a relationship with the deceased.

FAMILY PROTECTION ACT 1955

This Act allows certain family members to make a claim against an estate if they feel they have been inadequately provided for under the terms of the Will. The Act specifies which family members can make a claim.

PROPERTY (RELATIONSHIPS) ACT 1976

This Act is mainly about how the property of married, civil union, and de facto couples is to be divided up if they separate



IMPORTANT NOTE Perpetual Guardian does not accept any liability for loss arising as a consequence of anyone acting in reliance on these notes alone without individual advice. Equally, liability will not be accepted where individual or specific advice was given but all relevant details were not supplied to Perpetual Guardian. Perpetual Guardian is a trading name of Perpetual Trust Limited.

or one of them dies. A surviving spouse or partner has a choice to either accept the provisions under the Will or apply for a division of relationship property.

LAW REFORM (TESTAMENTARY PROMISES) ACT 1949

A person may claim against an estate if there was an unfulfilled promise to leave them something in a Will in return for work or services that was not paid for. This Act provides a remedy for those people if there was no provision for them made in the Will.

HOW LONG WILL IT TAKE?

This depends entirely on your family circumstances, how complex your assets and liabilities are, and whether anyone contests the estate. If an estate is contested there will be significant delays as the executor cannot finalise the estate until all claims are settled.

A straightforward estate can be finalised within 6 months from when the Grant to Administer is obtained. However, some complex estates can take well over a year to be finalised.

In some situations, the estate may make an interim distribution at the discretion of the executor subject to the factors listed above. Typically distributions occur after six months, after which the estate proceeds to closure.

CAN I PROTECT INHERITANCES?

Under the terms of the Property (Relationships) Act, inheritances received from an estate are initially separate property of the person receiving them, but they can become relationship property later. Your inheritance could have a significant impact on your wealth and security, so it is important to seek estate planning advice to ensure your assets are protected.

If you use inherited funds in any of the following ways, they could be considered relationship property and be available for division:

- Inheritance is paid into a joint bank account; or,
- Inheritance funds are used to pay off the mortgage on the family home; or,
- If the inheritance funds are used to purchase a family home.

Perpetual Guardian are experts in securing your financial future and can discuss ways to achieve this through sound estate planning structures.

Examples of how to protect your inheritance:

- Have the inheritance payed into a Trust; or,
- Invest the inheritance into funds in your sole name (through an investment portfolio or into a bank account).

Your Perpetual Guardian advisor can discuss your personal situation and refer you for specific advice.

WHAT HAPPENS IF I DIE WITHOUT A WILL?

If you do not have a Will, after you die your property and belongings will be distributed according to the requirements of the Administration Act 1969. In other words, if you don't have a Will, the law decides 'who gets what', regardless of the needs of those close to you, or what you may have wanted.

- There may be long delays in distributing your assets because of Court processes which could take months to resolve. Due to these processes, your estate will face additional legal costs.
- If you have young children, there could be uncertainty as to their future custody. A Will allows you to nominate the guardian you want for your children.
- Your assets may not go to those you would have liked. The law will determine this, not you.

Definitions of terms you may come across

ADMINISTRATOR A person or organisation appointed by the Court to manage the estate of a deceased person.

BENEFICIARY A person or organisation who is left property under the terms of the Will.

BEQUEST A gift of personal property that has been left by a Will.

DEPENDANT A person who relies on another, i.e. minor children.

DEVISE A gift of real estate that has been left by a Will.

ESTATE All assets and debts owned by an individual at the date of their death.

EXECUTOR A person or organisation appointed under a Will to protect, gather in and distribute the estate.

INTESTATE To die without leaving a Will.

LEGACY A gift of money left in a Will.

LETTERS OF ADMINISTRATION A High Court Order which authorises an administrator to manage a deceased person's estate.

PROBATE A High Court Order which shows that a Will has been proved and that a named executor and trustee are appointed.

WILL-MAKER The person who has made the Will.

TRUSTEE A person or organisation which holds assets over time for beneficiaries.

OUR CONTACT DETAILS

Whangarei	110 Bank Street, Whangarei 0110	E - whangarei@pgtrust.co.nz
Takapuna	495 Lake Road, Auckland 0622	E - takapuna@pgtrust.co.nz
Tāmaki-makau-rau / Auckland (CBD)	Level 23, 191 Queen Street, Auckland 1010	E - auckland@pgtrust.co.nz
Remuera	343 Remuera Road, Auckland 1050	E - remuera@pgtrust.co.nz
Tauranga-moana / Tauranga	61 Willow Street, Tauranga 3110	E - tauranga@pgtrust.co.nz
Kirikiri-roa / Hamilton	65 Bryce Street, Hamilton 3204	E - hamilton@pgtrust.co.nz
Rotorua	1130 Pukaki Street, Rotorua 3010	E - rotorua@pgtrust.co.nz
Ahuriri / Napier	136 Hastings Street, Napier 4110	E - napier@pgtrust.co.nz
Te Papaioea / Palmerston North	L1, 209 Broadway Ave, Palmerston North 4410	E - palmerstonnorth@pgtrust.co.nz
Ngāmotu / New Plymouth	20-22 Currie Street, New Plymouth 4310	E - newplymouth@pgtrust.co.nz
Te Whanganui-a-Tara / Wellington	Level 2, 99 Customhouse Quay, Wellington 6011	E - wellington@pgtrust.co.nz
Whakatū / Nelson	15 Buxton Square, Nelson 7010	E - nelson@pgtrust.co.nz
Ōtautahi / Christchurch	329 Durham Street North, Christchurch 8013	E - christchurch@pgtrust.co.nz
Tāhuna / Queenstown	26 Hawthorne Drive, Frankton 9349	E - queenstown@pgtrust.co.nz
Te Tihi-o-Maru / Timaru	2 Sefton Street East, Timaru 7910	E - timaru@pgtrust.co.nz
Ōtepoti / Dunedin	83A Princes Street, Dunedin 9016	E - dunedin@pgtrust.co.nz

perpetualguardian.co.nz
0800 737 738