



Executry Terminology

The sometimes confusing terminology used around wills and executries explained in plain English.

BENEFICIARY

A **beneficiary** is the name given to those who are entitled to receive funds or property from a Will or intestacy. There may be more than one beneficiary of a Will. They do not have to take part in the responsibilities as an executor does.

CODICIL

A **codicil** is a written supplement to a person's Will, which must be dated, signed and witnessed under the same **legal** rules applicable to the making of the original Will, and must make some reference to the Will it amends. A **codicil** can add to, subtract from, revoke or modify the terms of the original Will.

BOND OF CAUTION

This is a form of insurance which must be obtained by Executors where there is no Will and the value of the estate is over £36,000.

CONFIRMATION

Confirmation is a legal document from the court giving the executor(s) authority to uplift any money or other property belonging to a deceased person from the holder (such as the bank), and to administer and distribute it according to law. An application is lodged with the sheriff court.

DEATH CERTIFICATE

A **death certificate** is an official, government-issued document that declares the date and time, location, and cause of **death**, as well as other personal information about the person who died.

DEED OF VARIATION

A **deed of variation** is a document that allows the beneficiaries – children for example - named in the Will to change the distribution of the estate. For example, it can allow for a beneficiary to reduce their share in order to give it to someone who did **not** inherit.

ESTATE

The term that covers all the assets and liabilities of a deceased person, i.e. money, property and possessions, as well as outstanding debts.

EXECUTOR

In **Scotland**, an individual or entity (often the legal firm who drew up the will but not necessarily) appointed to deal with the administration of a deceased person's estate. An **executor** appointed in the Will of the deceased is called an **executor-nominate**. If the deceased did not leave a valid Will and therefore died intestate, an **executor** must be appointed by the appropriate court.

EXECUTOR DATIVE

If the deceased did not leave a valid will and therefore died intestate, an **executor** must be appointed by the appropriate court. Only people entitled to the estate can be appointed and the order as to who can apply to be appointed follows the succession rules. An **executor** appointed by the court in this way is called an **executor-dative**.



INHERITANCE TAX

The name of the tax that must be paid from the estate of a deceased person. It can be complex. The standard Inheritance Tax rate is 40%. It's only charged on the part of your estate that's above the threshold which is currently (2020) £325K unless you are also passing your home to your children then it can increase to £475k. Estate passes to spouses or charities free of Inheritance Tax.

INTESTACY

This term is used when a person dies without having made a valid Will and the Law determines how the estate is distributed.

LAWS OF INTESTACY

A surviving spouse or civil partner can claim what are known as **prior rights** (the matrimonial home, its contents and cash up to a certain value). A surviving spouse can also claim **legal rights** which amount to a one half share of the net moveable estate if there is no surviving issue (children or descendants of any predeceasing children); but only a one third share if there is surviving issue. If someone dies without being survived by a spouse or civil partner then their issue (children or descendants of any predeceasing children) will inherit the estate equally between them. If there are no surviving spouse, civil partner or issue the estate passes to the next surviving relatives such as parents or siblings or wider family members.

LEGACY

A sum of money or particular item which is to pass to a specified individual and a Will.

LIABILITIES

Any outstanding debts or obligations, which the deceased leaves behind such as an outstanding mortgage or credit card.

RESIDUE

The amount that is left for distribution after payment of debts, expenses, tax and legacies.