

The Living Executor and the Office of the Executor

Introduction

In matters relating to trusts and estates, confusion frequently arises between the **Living Executor** and the **Office of the Executor**.

While the two are closely related, they are not interchangeable. Each represents a distinct juridical concept; operates in a different manner; and carries a different character of authority. Inner-standing the distinction is essential for any living man or woman who seeks to act lawfully, coherently, and with the highest standing in relation to their *ens legis* estate.

The Living Executor

What the Living Executor Represents

The Living Executor is a living man or woman, *sui juris*, acting in their private capacity. The role arises from fact and status, not from statute, registration, or appointment by a court or institution. Authority flows from being alive, competent, and standing in honour, combined with a clear declaration of executorial capacity.

The Living Executor is not a legal fiction, office, or persona. It is the source of authority itself.

Authority of the Living Executor

The Living Executor holds:

- Primary and original authority over the trust estate;
- Beneficial standing, where applicable;
- Decision-making power grounded in private right, equity, and fiduciary duty;
- Personal accountability, enforceable in honour and conscience.

This authority is inherent, not delegated. It exists regardless of whether any formal office is created or recognised by third parties.

Mode of Operation

The Living Executor:

- Acts personally and deliberately;
- Issues notices, declarations, and instructions in the first person;
- Stands as Principal Beneficiary, not as an agent;
- Cannot be replaced, substituted, or superseded by an office or institution without consent.

In short, the Living Executor is the executor in truth.

The Office of the Executor

What the Office Represents

The **Office of the Executor** is an administrative construct. It is a functional office created to organise, record, and communicate executorial actions in a structured and recognisable form. It is comparable to a desk, a registry, or a clerical arm.

The Office of the Executor has no independent existence.

Authority of the Office

The Office of the Executor:

- Holds delegated authority only;
- Operates strictly under instruction of the Living Executor;
- Possesses no will, discretion, or standing of its own;
- Cannot originate decisions or assume executorial power.

Its authority is derivative, not inherent.

Mode of Operation

The Office of the Executor:

- Issues correspondence, certificates, and records;
- Maintains administrative continuity;
- Interfaces with institutions, corporations, and public bodies;
- Functions as a buffer between the Living Executor and external systems.

The Office of the Executor is an administrative tool.

Key Differences at a Glance

Aspect	Living Executor	Office of the Executor
Nature	Living man or woman	Administrative construct
Capacity	Private, <i>sui juris</i>	Delegated, functional
Authority	Original and primary	Secondary and derived
Standing	In fact and in being	In form only
Accountability	Personal	Instrumental
Role	Decides and commands	Records and transmits

Operation in Relation to a Trust Estate

The trust estate exists as a construct requiring administration. It cannot act on its own.

- The Living Executor exercises control, discretion, and responsibility over the estate;
- The Office of the Executor performs clerical, documentary, and procedural tasks to support the control of the Living Executor.

Where confusion arises is when the Office of the Executor is mistakenly treated as the source of authority. This inversion weakens standing and invites jurisdictional interference.

The correct hierarchy of authority and control is always:

Living Executor → Office of the Executor → Estate Administration

Recommended Course of Action Going Forward

For a living man or woman seeking to hold the highest possible authority, the following course of action is recommended:

1. **Stand first as the Living Executor**
 - Declare status clearly and unambiguously (see Self-Study Workbook # LEX01)
 - Act in the first person;
 - Make it known that authority arises from being alive and competent.
2. **Create and use the Office of the Executor only as a tool**
 - Employ for administration, record-keeping, and correspondence only;
 - Ensure the Office always acts under the direction of the Living Executor.
3. **Never hide behind the Office**
 - Authority must remain visibly vested in the living man or woman;
 - The Office should amplify authority, not replace it.
4. **Maintain honour and consistency**
 - Do not mix capacities.
 - Do not allow an administrative fiction to outrank the living principal.

Conclusion

1. The Living Executor is the source of authority;
2. The Office of the Executor is merely the means by which the authority is expressed.

Anyone who inverts this relationship weakens their position. Those who maintain it correctly stand in clarity, coherence, and strength. The highest authority is always held by the living man or woman, who knows their standing, acts in honour, and uses the Office of the Executor as a servant—not a master—of their will.

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