

# Wills and POWERS OF ATTORNEY

## WHAT IS A WILL?

A Will is a legal document which sets out your wishes as to the allocation and distribution of your personal assets on death. A Will can be revoked by making another Will and it can be updated at any time during your life time.

## WHO CAN MAKE A WILL?

A Will can be made by anyone over the age of eighteen years who has the mental capacity to understand and make legal decisions concerning their estate.

## WHY DO I NEED A WILL?

A Will details your wishes and provides you with a voice when you are no longer here. Without a Will there is a risk that your assets may not pass to the person that you most want to provide for.

## WHAT HAPPENS IF I DIE WITHOUT A WILL?

If you die without a Will, legislation steps in and distributes your assets to your family as determined by a set government formula.

If you do not have any family members who qualify, then your estate may pass to the Government. It is strongly recommended that a Will is drafted to avoid separated partners/spouses, estranged children or estranged family members from inheriting your estate.

## HOW OFTEN SHOULD I REVIEW MY WILL?

It is recommended that once you make a Will that you review it on a regular basis (every 3 years) or when circumstances change to ensure that it reflects your current circumstances.

## WHO SHOULD I APPOINT AS AN EXECUTOR AND WHAT IS THEIR ROLE?

Your executor is the person or persons appointed to deal with your estate after your death. They are responsible for attending to your funeral arrangements, ascertaining and locating assets, selling assets and ensuring that your estate is administered and distributed in accordance with your Will.

It is vital that you appoint an Executor who is trustworthy, capable and able to carry out your wishes.

## WHAT IF I HAVE A MINOR CHILD, WHO WILL CARE FOR THEM WHEN I DIE?

If you have a minor child(ren) it is important to appoint a guardian within your Will to ensure that your children are properly cared for by the people you determine are best placed to do so.

## WHAT IF I HAVE A CHILD WITH SPECIAL NEEDS?

There are a number of different ways to deal with a beneficiary's entitlement under a Will - trusts can be created to assist at risk beneficiaries and disability trust structures can be established to help care for a disabled child during his or her life time. Should you have a child who has a special need, it is best that you discuss this with our office to determine the best way to protect his or her inheritance.

## WHAT ASSETS FORM PART OF MY ESTATE?

Your Will can only deal with assets that form part of your estate such as bank accounts, cars, property and personal assets that are owned by you in your personal name. Assets such as superannuation, life insurance, company assets and trusts may not form part of your estate and external documentation needs to be prepared to ensure that these assets, or control of these assets, passes to the appropriate people.

## WHAT HAPPENS TO MY WILL IF I GET MARRIED OR DIVORCED?

Both marriage and divorce have serious consequences to the validity and effect of a Will. If you intend on getting married or separating from your spouse or partner promptly seek advice as to the effects that this may have on your Will.

## WHAT IF I WANT TO EXCLUDE A PERSON FROM MY WILL?

Whilst you are free to leave your estate in any way that you would like, the courts do have powers to award a portion of your estate to those that you have a moral obligation to provide for. If you intend to exclude a person from your Will, it is recommended that you seek further advice as to how best to protect your estate from a claim.

## WHAT IS AN ENDURING POWER OF ATTORNEY?

An Enduring Power of Attorney is the legal appointment of an individual(s) to make either financial and personal decisions on your behalf in the event you are unable to do so.

Some of the decisions that an attorney can make relate to financial matters, property matters, paying bills, undertaking real estate transactions, deciding where you should live and making lifestyle choices on your behalf.

It is vital that you carefully consider who to appoint as your attorney and ensure that you trust them to properly carry out your wishes.

## WHAT IS A MEDICAL TREATMENT DECISION MAKER?

A Medical Treatment Decision Maker is a person who is legally appointed to make medical treatment decisions for you in the event that you cease to have decision making capacity.

Your Medical Treatment Decision Maker should be someone you trust to respect your values and preferences for your medical treatment. It is recommended that you discuss your medical and health care wishes with your decision maker on a regular basis.