

YOUR WILL AND TESTAMENT

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What is a Will?

A Will is a legal document which expresses the intentions of a person as to how they want to dispose of their assets on their death.

Who should have a Will?

It is advisable that every person has a Will no matter the extent of the assets of their estate. A Will makes it simpler and cheaper to attend to a person's affairs after death.

Who should be the Executor?

The Executor is the person charged with the responsibility of implementing and administering the Will.

You should make sure that the Executor is someone you trust and someone who is capable of carrying out the tasks set by the Will.

How many Executors should I have?

It is advisable to appoint more than one person as an Executor in case an Executor dies before you or is unable to act as the Executor.

It is possible to appoint a Trustee company as Executor although this is not common due to circumstances and expense.

Can children inherit?

Any gift to a person under the age of eighteen years must be held in trust for that person until they become eighteen years of age.

Your Will should appoint Trustees to look after the inheritance for these minors and allow for use of those funds in limited circumstances for the benefit of the minors.

Who will look after my minor children?

If you have minor children then you should nominate the testamentary guardians in your Will. On your death the people you trust will be able to take care of your children and make legal decisions for them.

Can I structure my Will so that it is tax effective?

There are ways to draft a Will to make it tax effective for the beneficiaries. Sometimes it is appropriate to create a "Testamentary Trust" so that minor beneficiaries have taxation advantages.

Does my superannuation form part of my estate?

In most cases, your superannuation fund does not become part of your estate unless you nominate your estate as the beneficiary. In most cases, the Deed governing your superannuation investment allows you to make a binding nomination as to who receives the superannuation on your death.



You need to ascertain who will inherit your superannuation on your death and make sure your Will is tailored to take this into account.

What happens with my life insurance?

Life insurance is like superannuation. In most cases, it is possible to nominate a beneficiary of your life policy. If you nominate a beneficiary then the proceeds of the life policy will not become part of your estate and will not be covered by your Will.

You need to check who is the beneficiary of your life policy and tailor your will to take this into account.

Do I need to specify who will take over the control of my Family Trust?

If you have a Family Trust then you need to examine the terms of the Trust Deed to see who takes over your powers on your death.

It may be necessary for you to nominate a person to assume those powers.

Should I stipulate funeral arrangements?

Although not a legal requirement, a Will is a good place to express your burial intentions.

What is the Family Provision Act?

This Act provides that you must make adequate provision for some people.

If you have been in a prior relationship or have children from another relationship then you need to consider whether you should make provision for them.

