



Wills

Why you can't live without one

Do I need a Will?

If you are over the age of 18, the simple answer is yes.

Not only does a Will allow you to take control of what will happen to your assets upon your death, it also prevents the family members you leave behind from having to deal with the difficulties and complications that often arise from intestacy.

What if I have a current will?

Even if you have a current Will, it may no longer be valid if, for example, you have married or divorced since the time of making the Will.

As a general rule, Wills should be updated at least once every 5 years.

What is intestacy?

Anyone who dies without a valid Will is known as an intestate, and their assets are dealt with according to the provisions of the *Administration Act 1903* (WA).

Under the *Administration Act*, all assets are distributed according to a legal formula—no consideration is given to the wishes of your family, or the manner in which you would likely have wanted your assets to be distributed.

If you have no surviving family, and you die without a valid Will, your entire estate will pass to the government by way of a legal principle known as 'escheat'.

What are the requirements for a valid Will?

To make a valid and binding Will

in Western Australia, you must:

1. Be at least 18 years old;
2. Be of sound mind; and
3. Be making the Will freely and voluntarily.

This Will must be signed by you, and correctly witnessed by at least two adults.

What can I include in my Will?

The primary purpose of a Will is to provide for the distribution of your estate upon your death.

However, some assets that you may consider as belonging to you cannot be dealt with in a Will. This is because you do not legally own these assets. Examples include:

1. Assets which you own as joint tenants;
2. Family Trust assets; and
3. Assets owned by a company (even if you are the sole director and shareholder).

Apart from the distribution of assets, your Will may also deal with other important matters such as the appointment of a guardian for your minor children.

Do I have to go to a lawyer to make my Will?

There is no law in Western Australia which requires you to go to a lawyer to make your Will, and many newsagents sell DIY standard form Will kits.

However, there are many reasons why it is best to have a lawyer prepare your Will, including:

1. *Peace of Mind*: Going to a lawyer ensures that the Will has been correctly drafted, and

will be valid and enforceable upon your death;

2. *Complexity*: Drafting a Will is by no means a simple process. Apart from the provisions of the Will itself, you need to be aware of the laws which may affect the operation of your Will; and

3. *Cost*: Having a professionally prepared Will doesn't have to cost the earth. Our standard charge for a single Will is \$150 plus GST, with a further discount for couples who have their wills prepared simultaneously.

What is the next step?

If you would like a quote from one of our experienced solicitors, simply fill out the Will Instruction Form downloadable from this website and send it to our office by email, fax or post.

Alternatively, if you have any questions about Wills or estate planning which are not covered in this newsletter, please contact our offices on (08) 9456 0900 to speak with one of our friendly staff who will be happy to assist you with your enquiry.



Contact us today to make an appointment
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