

Do I need a will?



Making a will is one of the most important things you will ever do.

A valid will is the only way you can be absolutely certain that after your death your estate will be distributed according to your wishes. It ensures that your estate is passed legally onto your loved ones and the organisations you wish to support.



Everyone over the age of 18 should make a will but unfortunately in Australia the statistics show that around a third of people over 25 do not yet have a will and therefore leave the distribution of their estate to chance.

Why make a will?

A valid will provides clear instructions on how you want your assets and personal belongings distributed after you have died. Often people fall for the mistake of thinking that everyone in their family knows how they want their estate distributed and presume that after their death things will flow smoothly. A will is a legal document which appoints an executor to administer your estate after you die and to ensure that your stated wishes are heeded. It minimises the risk of a subsequent dispute, distress and any potential legal proceedings which can erode the value of the estate.

If you die without a will, the law dictates how your estate will be distributed following a set legal procedure and it is possible that people who were never intended to benefit from an estate may end up receiving part or all of it.

Having a will is especially important if there has been a divorce, de facto relationship, multiple marriages, blended families and so on, as these situations multiple the potential for future conflict.

Making a will is easy

Preparing a will is not expensive, but it is an important legal document and we recommend that you have it prepared by a legal professional. Off-the-shelf will kits are available at newsagents and book stores but depending on the wording you use, these may be more likely to be open to challenge. If you do not have a solicitor, ask a friend for a recommendation, or contact the Law Institute to provide you with a list of qualified solicitors trained in the area of wills and estate planning.

Amending a will is easier

If you already have an existing will and wish to make some minor adjustments, or want to include a bequest to a non-profit organisation or charity, it isn't necessary to have a new will prepared. You simply add what is called a codicil to the existing document to record your amended wishes. Again your solicitor will help you prepare this.

What information will a solicitor ask for?

It depends on how detailed you wish to make your will. Allocating certain assets such as jewellery or antiques to individuals means you will need to prepare an inventory of specific items and who you want them to go to before you see the solicitor, otherwise you will take up a lot of time and costs will be much higher.

Your solicitor will go through a process to ensure that he has detailed information on how to best structure your will to meet your requirements. Ensure all your personal information is up to date and as accurate as possible as this will speed the process.

Make a list of the people and organisations you wish to benefit from your estate. Your solicitor will be able to advise of the different ways of making such bequests.

Before you make a will

- A person making a will must be at least 18 years of age and of sound mind.
- That person must know they are making a will, understanding the nature and effect of the proposed will, and that they are distributing their assets according to their own intentions.
- The will must be in writing.
- The will is signed by the testator (person whose will it is) at the end of the will.
- The testator's signature is witnessed by two witnesses, who are not either a beneficiary or the spouse/de facto of a beneficiary.
- The witnesses sign the will in the presence of the testator and each other.

Keep your will safe

Always keep your will safe and secure. It is an important legal document and most people entrust it to the solicitor involved in drafting or to their local bank branch that both have strongrooms for such documents. You should ensure that your executor knows where the document is so they can obtain a copy following your death.

Further information

This document has been prepared by Trinity Families as general advice and this advice should always be confirmed with your solicitor. For further information about making a bequest you can download a bequesting advice document, instruction sheet for solicitors and a tax implications sheet from our web page www.trinityfamilies.org.au.

If you wish to have a confidential discussion regarding your intentions before making your will please contact Executive Officer Colin Coomber on **(03) 5622 6688** or email trinity@sale.catholic.org.au

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