

Legalquotes News

PROVIDED BY RANKIN NATHAN LAWYERS

DO YOU NEED TO UPDATE YOUR WILL?

Everyone who is over the age of 18 needs to make a valid Will.

This is true regardless of whether you think you have any significant assets or not – you may be richer than you think. For example, at the time you make your Will, you may not think that you have any significant assets, but have you considered your superannuation entitlements? Many people are unaware of the location of their super and even how much it is worth – it could be thousands of dollars!!

In addition, if you don't make a valid Will, whatever the value of your estate, SOMEBODY ELSE (usually the government) gets to decide how your estate is distributed when you die.

We especially recommend that you have a current Will that meets your wishes and is tailored to your individual circumstances when:-

- You have assets that you would like distributed in a certain way.
- You own your own business.
- You get married, divorced or enter into a defacto relationship.
- You have children under the age of 18 years.
- You have a family member with special needs (e.g. a disability).
- You wish to leave your money to your favourite charity or non-profit organisation.

What happens if you don't have a Will? If you don't have a Will or a valid Will, your loved ones may not be adequately catered for. Some problems which may arise include:-

- Your estate being distributed in accordance with a statutory formula made by the Government. The people you want to benefit may not be the ones that ultimately do benefit.

- The Government possibly benefiting from your estate – giving money to the Government.
- Your family and loved ones not being provided for in accordance with your wishes.
- Possible avoidable taxes may be unnecessarily incurred.
- You may not be able to express a wish about who is appointed as guardians of your minor children.
- Your family members with special needs might not be adequately provided for.
- The administration of your estate taking more time and being more costly than would otherwise be the case if you had made a Will.

You should definitely consider updating your existing Will, or making a new Will, if one or more of the following circumstances has occurred in your life:-

1. If you marry. Your existing Will will be revoked by the marriage unless it is expressed to be made in contemplation of that marriage.
2. If you divorce. If you are contemplating divorce or have been divorced since making your last Will, you should contact a lawyer about the contents of your current Will as some bequests in the Will will normally not take effect.
3. If your other circumstances change.

For example:-

- a. If you change your name.
- b. If an executor named in your current Will dies or becomes unwilling to act as an executor or becomes unsuitable due to age, ill health or any other reason.
- c. If a beneficiary named in your Will dies.
- d. If you have specifically left any property under your Will that you subsequently sell or give away or convert into some other form of property.



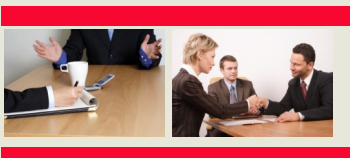
- e. You should also seek legal advice if you put property left in your Will into a trust or into a Partnership.
- f. If you have children including adopted or foster children.
- g. If you enter into or end a defacto relationship.

Example

Throughout her life, Betty developed an interest and passion for the work of the RSPCA. Betty always wanted to make sure that when she passed on, she would make a donation to the RSPCA. Betty died without making a valid Will, leaving her son (her husband had died some years before). While her estate was not large, the money and property that she had built up over her life was inherited by her son based on the formula set by the Government for people who die without a Will. It was only because her son knew of her interest in the RSPCA and made a gift to that organisation after her death in the amount of \$1,000 (that was all he could afford) that the RSPCA still benefited. However, Betty would have liked to have left more than that to the RSPCA.

Getting your estate planning right is crucial for your peace of mind. It is a lot easier than many people think to make sure that your family and loved ones are adequately provided for.

If you have any queries or would like to make an appointment to update your Will or other estate planning documents, please contact one of our estate planning Solicitors on 1300 727. 813 .



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