**MAKING A WILL**

What you need to know

&

What you need to do

COP & CO

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 **WHAT YOU NEED TO KNOW**

**What is a Will?**

A Will or Last Will and Testament is just a fancy way of saying: a document that outlines how you would like your assets distributed when you die.

**Other terms used:-**

**ESTATE** = all of your assets: cars, houses, cash, shares, boats, a business (if self-employed), tools, clothes, books, DVDs, mobile phones, jewelry, family heirlooms passed to you, anything you insure in your home-and-contents insurance, overseas property, debts owing to you, etc.

**BENEFICIARY** = the people you are going to leave your assets, for example: spouse, children, grandchildren, nieces/nephews, charities, etc.

**EXECUTOR** = the person in charge of making sure everything in your Will is distributed how you have directed. It has to be someone who you absolutely trust to carry out your wishes as outlined in the Will, leaving aside their own thoughts and views of who your assets should go to. It can be a parent, spouse, child, brother/sister, your solicitor, your accountant, etc.

**When do you need to make a Will?**

Your Will needs to change as you travel your lifes journey. For example:-

 buying a car, working and having money on a bank account. Even the youngest of adults have reached this stage of life.

 entering a de facto relationship (moving in with someone).

 marriage.

 birth of a child or second, third child.

 buying a house.

 separation or divorce.

 remarriage.

 change in your financial circumstances (starting a business, inheritance, etc).

 death of a spouse/partner.

 retirement.

All these stages of life probably require your Will to be changed.

**What else?**

If your children are under 18 and your spouse passes away before you (or you both pass away at the same time, probably in tragic circumstances), then a Will allows you name the Guardian of your children.

Also, not many people know this but, if you have a Superannuation Fund, the trustees of your Super Fund have absolute discretion to decide who gets your Super on your death. A BINDING DEATH BENEFIT NOMINATION directs your Super trustees to pay out your Super Funds according to your wishes and not theirs.

 **WHAT YOU NEED TO DO**

1. **Consider what assets you have and who you want to have them**

Do you want your spouse to enjoy the use of the family home while they are alive?

Do you want all of your assets to go to your children immediately?

1. **Who will be your executor?**

Think very carefully about this. Its an issue of absolute trust. Will the person be tempted to divert your assets/funds their own way? Its also probably a good idea to ask them if they want to act in this capacity.

1. **Who will be the Guardian of your children under the age of 18?**

Definitely ask the person you think to appoint. Talk about it in some length.

You are asking them to take on a (probably) life-long commitment to be the de facto parent of your children in your absence.

It can be another of your children who is over the age of 18.

 **PROVIDE THE DETAILS**

***STEP 1***

Who will be your Executor?

EXECUTOR:

If any of your children are under the age of 18, who do you want to be the Guardian of your children?

GUARDIAN:

***STEP 2***

To enable me to prepare your Will, I will need you to fill in PART A ***OR*** PART B.

If PART A suits what you want done, just circle the relevant response.

If PART A does not suit want you want done, then move on to PART B and FULLY COMPLETE the whole section.

DO NOT COMPLETE BOTH PARTS A & B.

**PART A: SHORT FORM**

1. Do you want all of your assets to be left to your spouse for the duration of his/her life and then go to your children (who will then get equal shares)?

YES / NO (Circle one)

***OR***

2. Do you want all of your assets to be left immediately to your children (who will get equal shares)?

YES / NO (Circle one)

\*\*\* IF NEITHER OF THESE IS APPLICABLE, go to PART B

**PART B: LONG FORM**

Do not complete this section if you completed PART A.

1. **SPECIFIC ASSETS**

Are there a specific assets you want left to specific persons? Examples of specific assets are things like a wedding dress, jewelry, china, cutlery, antiques, clothes, car, boat, motorcycle, musical instrument, furniture, refrigerator, television, video, stereo, shares, a specific amount of cash, etc. Any asset can be left to any person, such as a son, daughter, nephew, grandchild, etc. If this person passes away before you, do you want the asset to go to that persons children?

Which asset Name of person Asset to their children

(describe in detail) asset going to (yes or no)?

EXAMPLE ONLY

my 1958 FC Holden Wally Lewis No

2. **THE ASSETS THAT ARE LEFT**

After taking out the specific assets, the assets that are left are called the residuary. To whom do you want to leave the residuary? It can be to more than one person and it can include someone who has already received something above. What share (example: half, third, 23%, 47% 89%, etc.) is to go to each person. Make sure the shares add to 100%. If this person/s passes away before you, do you want that persons share to go to his/her children?

Name of person Share to children

asset is to go to What share (%) (yes or no)?

EXAMPLE ONLY

Daughter, Mia 72% No

Son, Thomas 27% Yes

Red Cross Australia 1% No/NA

***STEP 3***

 **PERSONAL DETAILS**

Please FULLY complete the section below.

Why do I need all this information? Firstly, you need to be identified specifically for your Will to have effect. You would be surprised by how many people in Australia (and the World) have exactly the same name.

Bearing this in mind, also, sometimes people only make a Will once every 10 years or more. In that time, they (or the beneficiaries) may move house a few times. Its important that these details are centrally located somewhere so the executor can carry out your wishes, as per the Will. This may be hard to do it the executor cant locate a relevant person.

If you dont have all the details, please provide as much as you can.

Where it says BENEFICIARY below, this means the persons to whom you have left your assets, usually your children, but it can be anyone you have included above. The beneficiaries dont need to be listed in any specific order.

**YOU (THE PERSON MAKING THE WILL)**

Your first name:

Your middle name:

Your surname:

Your date of birth:

Your occupation:

Your residential address:

Your WORK telephone number:

Your WORK fax number:

Your HOME telephone number:

Your MOBILE telephone number:

Your WORK e-mail address:

Your PERSONAL e-mail address:

**SPOUSE/PARTNER**

Spouse/partner first name:

Spouse/partner middle name:

Spouse/partner surname:

Spouse/partner date of birth:

Spouse/partner occupation:

Spouse/partner residential address:

Spouse/partner WORK telephone number:

Spouse/partner WORK fax number:

Spouse/partner HOME telephone number:

Spouse/partner MOBILE telephone number:

Spouse/partner WORK e-mail address:

Spouse/partner PERSONAL e-mail address:

**BENEFICIARY #1**

Beneficiary #1 first name:

Beneficiary #1 middle name:

Beneficiary #1 surname:

Beneficiary #1 date of birth:

Beneficiary #1 occupation:

Beneficiary #1 residential address:

Beneficiary #1 WORK telephone number:

Beneficiary #1 WORK fax number:

Beneficiary #1 HOME telephone number:

Beneficiary #1 MOBILE telephone number:

Beneficiary #1 WORK e-mail address:

Beneficiary #1 PERSONAL e-mail address:

**BENEFICIARY #2**

Beneficiary #2 first name:

Beneficiary #2 middle name:

Beneficiary #2 surname:

Beneficiary #2 date of birth:

Beneficiary #2 occupation:

Beneficiary #2 residential address:

Beneficiary #2 WORK telephone number:

Beneficiary #2 WORK fax number:

Beneficiary #2 HOME telephone number:

Beneficiary #2 MOBILE telephone number:

Beneficiary #2 WORK e-mail address:

Beneficiary #2 PERSONAL e-mail address:

**BENEFICIARY #3**

Beneficiary #3 first name:

Beneficiary #3 middle name:

Beneficiary #3 surname:

Beneficiary #3 date of birth:

Beneficiary #3 occupation:

Beneficiary #3 residential address:

Beneficiary #3 WORK telephone number:

Beneficiary #3 WORK fax number:

Beneficiary #3 HOME telephone number:

Beneficiary #3 MOBILE telephone number:

Beneficiary #3 WORK e-mail address:

Beneficiary #3 PERSONAL e-mail address:

**BENEFICIARY #4**

Beneficiary #4 first name:

Beneficiary #4 middle name:

Beneficiary #4 surname:

Beneficiary #4 date of birth:

Beneficiary #4 occupation:

Beneficiary #4 residential address:

Beneficiary #4 WORK telephone number:

Beneficiary #4 WORK fax number:

Beneficiary #4 HOME telephone number:

Beneficiary #4 MOBILE telephone number:

Beneficiary #4 WORK e-mail address:

Beneficiary #4 PERSONAL e-mail address:

If there are more than 4 beneficiaries, please provide the same details as above for any additional beneficiaries.

***STEP 4***

 **SIGNING**

Please sign the form where indicated to confirm your wishes to make up a Will as listed above.

This document has been designed to take effect as an EMERGENCY Will until a formal Will has been prepared and signed by you.

It would be extremely dangerous to rely on this document alone but from the time it takes for this document to be completed by you and the time you sign your actual Will, it is a good short-term measure, a bit like cover-note insurance until you arrange for your real insurance.

You do not have to use this emergency measure if you do not want to.

If you want your wishes to take effect IMMEDIATELY, then sign this form EXACTLY as follows:-

1. You need to witnesses who are not any person to be named in the Will. They must be over the age of 18. They must BOTH be in the room with you.
2. You sign just below. Both witnesses must be see you sign.
3. Then, both witnesses must sign as well. The order they sign is not important.

**PERSON MAKING THE WILL**

THIS DOCUMENT ACCURATELY REFLECTS MY WISHES AND IS SIGNED BY ME (YOUR FULL NAME) ON (DATE) (MONTH) , 201 AT (SUBURB)

..............................................................

Your signature on the dotted line above

**WITNESS #1**

THE ABOVE PERSON (MAKING THE WILL) SIGNED THIS DOCUMENT IN MY PRESENCE AND IN THE PRESENCE OF THE OTHER WITNESS AT THE SAME TIME, ON THE DATE LISTED ABOVE. I AM OVER 18 YEARS OF AGE AND AM NOT LISTED AS A BENEFICIARY IN THIS DOCUMENT.

................................................... ....................................................

Witness #1 signature Witness #1 Print Full Name

**WITNESS #2**

THE ABOVE PERSON (MAKING THE WILL) SIGNED THIS DOCUMENT IN MY PRESENCE AND IN THE PRESENCE OF THE OTHER WITNESS AT THE SAME TIME, ON THE DATE LISTED ABOVE. I AM OVER 18 YEARS OF AGE AND AM NOT LISTED AS A BENEFICIARY IN THIS DOCUMENT.

................................................... ....................................................

Witness #2 signature Witness #2 Print Full Name

***STEP 4***

 **WHAT HAPPENS NOW?**

1. Once you have signed this form (and if you want it to have immediate effect, 2 witnesses have signed as well), you need to send this form to me.

Scan it, e-mail it, fax it, post it. It doesnt matter.

1. Once I get it, I will prepare your formal Will for you. I will have to post it as it as the original must be signed by you.
2. Once you have signed it, its a good idea to make a copy and send me the original. I will check that you have signed it correctly and I will store it for you.
3. Once thats done: Thats it! Your assets will now be distributed as you direct and not at the whim of somebody else!

 **OPTIONAL**

**BINDING DEATH BENEFIT NOMINATION**

If you have a Superannuation Fund, you have 2 choices about how to deal with it:-

1. You can pay the contents of your Super Fund into your Will estate. This means it will be dealt with by what you have directed in your Will. This is probably the easiest and best thing to do.
2. You can nominate specific persons to receive specific amounts. However, you can only nominate a spouse, child or someone dependent on you (such as a grandchild living with you). This is why its easier and more flexible if you just nominate your estate.

If you do neither of these, the Super Fund Manager will decide how to distribute your money and to whom.

If you want a stranger to distribute your hard-earned Super however this person pleases, you do not need to do any more, just leave things as they are.

If you want to take control and decide how your Super will be distributed, you will need a BINDING DEATH BENEFIT NOMINATION.

To help me prepare this for you, I will need the following information:-

I want my Super Funds to go to my Estate (Personal Representative/Executor): YES/NO

***OR*** fill out below

PERSON (full name please) WHAT %

SPOUSE

CHILD # 1

CHILD # 2

CHILD # 3

CHILD # 4

OTHER DEPENDENT #1

OTHER DEPENDENT #2

I will now send you your BINDING DEATH BENEFIT NOMINATION for you to sign.