

# Australian Probate Lawyers

## Wills and Estates

### What is a Will?

Most people know that they need a Will at some stage in their life, but not everyone understands and knows what a Will is and what uses it has. Creating a Will is one of the most important legal acts you will do throughout your lifetime. A Will is a legal document containing instructions and wishes as to how your property and assets are to be distributed after your death, and who is to benefit from your Estate. Making a valid Will is the only way you can ensure your assets will be distributed according to your wishes after you pass away.

### What is an Estate?

An Estate is a term used to describe the assets and liabilities of a deceased person. This includes all assets such as: property (house and land), shares, bank accounts, cash, investments, vehicles and personal possessions in the deceased's own name. Assets in the name of companies and trusts, and owned as joint tenants, will not form part of an Estate in Queensland. Other states may differ from this position. It is important to properly consider all of your assets in your Will to ensure that challenges to your Will can't be made.

### What does a Will do?

In event of a death, the deceased will most likely leave a Will that sets out clear instructions as to what should happen to their Estate. However, there are many more uses for a Will which include:

- Appointing an Executor;
- Appoint Guardians for your children and their property;
- Name the beneficiaries;
- Advise of the choice between burial or cremation;
- Choose how debts and taxes will be paid;
- Establishing a trust to provide for children;
- Establishing a trust for a person with a disability.

### Who can make a Will?

A Will can be made by anyone over the age of 18, as long as they have the mental capacity to understand what they are doing. Ensuring that a person has mental capacity can also assist in proving the validity of the Will.

### What goes into my Will?

There are many things you can include in your Will such as:

- How your assets are dealt with such as houses, cars, investments, shares and cash;
- Rights and powers, such as the right to appoint the trustee of a family trust;
- Specific belongings such as heirlooms, jewellery, books, and photos – if you list specific items make sure they are easily identifiable;
- Who your executor will be;
- Who will benefit from your Estate, and when.

You can also include other matters, such as:

- how you would like your remains to be dealt with;
- organ donation;
- who you would like to act as guardians of your children.

### What should I do next?

Our Wills and Estates team will ensure that your intentions for your Estate are clearly and accurately documented in the event of your death. Our professionally drafted Wills ensure that your Estate will be distributed as per your wishes, and minimise the risk of someone challenging your Will. Passing away without a professionally drafted Will could cause unnecessary hardship, stress and costs to loved family members that you have left behind. Contact us today if you wish to speak with our experienced Wills and Estates team. Call Gordon on 0415 354 437.