

What is a will and why do I need one?

Your will is a legal document to distribute your assets upon death.

The document enables your executors to deal with your assets according to your wishes.

The assets of real and personal property are usually left to benefit your family and the people you love and care about. You might also wish to provide a gift to a charity in your will.

Other issues such as funeral and burial requirements, and organ donation are also considered in the estate planning process.

If you don't have a will, you die intestate and your assets are distributed according to the succession laws. These vary in different States and Territories in Australia.

At present, in NSW a surviving spouse receives the whole estate if there are no children, or all 'household' belongings plus the first \$200,000 of the estate and half the remainder if there are children. The children divide the other half of the remainder. The spouse may elect to take the matrimonial home as his or her share.

If there is no legal or de facto spouse or direct descendants, the deceased's parents receive the whole estate, otherwise it goes to brothers and sisters or certain other close blood relatives.

If none of these relatives are alive, the estate goes to the Government.

This may put your spouse in an impecunious position and they may financially struggle to bring up the children.

It also means that distributions are made without any consideration of the financial need or circumstances of any of the beneficiaries.

Some loved ones may be excluded as a result. Step children for instance have no statutory entitlement to any of your estate if you die without a will. Business partners have no automatic entitlement to your share in any business if and when you die.

If you do not have any next of kin then your property defaults to the crown.

It is expected that these laws will change in New South Wales in 2010.

To avoid these disturbing consequences we strongly recommend to all our clients that we help them design a will (and other ancillary documents) that best suits them so that they can leave their assets to the people they care about.

Please contact us if you wish to schedule an appointment to discuss your will.

Our goal is to make your estate planning decisions easier, by considering with you the options available for your financial and personal circumstances. We have the experience needed to proactively head off potential family problems and guide you through complex legal issues.

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