



JUST [us] lawyers

WILLS & ENDURING POWERS OF ATTORNEY

What is a Will?

A Will is a legal document that sets out your wishes as to how your estate is to be distributed once you have passed away. If you do not have a Will, you have no say in how your estate is administered once you have passed away.

What happens if you die without a Will?

When you die without a Will, you are said to have died “intestate”. Intestate estates are dealt with in accordance with the intestacy laws in Queensland. These intestacy rules include:

- If you have a spouse (including de facto) and no children, your spouse gets the whole of the estate; or
- If you have a spouse and a child, your spouse receives \$150,000 plus household chattels plus ½ of the balance (or 1/3 if more than one child).

Dying intestate may have unwanted consequences such as having to sell the family home in order to distribute your estate in accordance with the Succession Act or an estranged family member benefiting from your estate when you do not want them to.

Why get a solicitor to draw up your Will?

A Will is a legal document, and as such, if the Will is unclear, improperly worded or incorrectly signed, then it may be invalid and your wishes completely disregarded. A properly drafted and executed Will gives you a number of options in how your estate is administered and distributed, for example:

- You can choose your own executor/s;
- You can give gifts to specific people or to a charity;
- You can appoint guardians for your children;
- You can set up a trust to ensure that your assets are used or invested for the best interests of the beneficiaries.

When should you update your Will?

You should change your Will if: you get married, divorced or separate from your partner, enter into a defacto relationship, you have children or grandchildren, your executor or beneficiary dies, there is a change in your financial circumstances or your wishes change.

What is an Enduring Power of Attorney?

An Enduring Power of Attorney allows you to appoint someone to make decisions about your financial and/or personal health matters while you have impaired capacity. You can nominate 1 or more attorneys and say when their power will begin. You can give your attorney(s) the authority to make any decision that you could legally make yourself or limit their powers to terms set by you.

A financial attorney is responsible for all financial matters including receiving income, paying bills, taxation issues, investment and financial planning or property management.

A personal/health care attorney may make decisions such as where you live, who you live with, daily issues like diet and dress and giving approval for you to receive certain types of health care.

Why you should make an enduring power of attorney?

You should make an enduring power of attorney if you are 18 years of age or over and have the capacity to understand the nature and effect of the power you are giving to your attorney. If there comes a time when you are unable to manage your own affairs, it may be too late to make your wishes clear to those who will care for you.

The best way to provide peace of mind is to legally appoint someone now to manage your financial and personal/health matters in case in the future, you are unable to do so yourself.

Contact us

At Just Us Lawyers, we have over 20 years of experience in drafting Wills that clearly set out your wishes and give you peace of mind. Our staff are here to offer you advice and experience in drafting your Will and also assist your Executors once you have passed away.

We also offer a safe custody service to our clients where we will hold your Will and Enduring Power of Attorney securely. This avoids any uncertainty over the location and content of your Will.

For more information about our Wills and Estates services or to arrange an appointment to discuss your Will, please contact us on (07) 3369 7145.