

KELLY & CHAPMAN

LAWYERS

WHY DO YOU NEED  
A WILL?

Level 1, 300 Centre Road  
Bentleigh Vic 3204 Australia  
P.O. Box 147, Bentleigh Vic 3204  
DX 37502 Bentleigh Vic  
T 03 9557 2915  
F 03 9557 1225  
[reception@kellyandchapman.com.au](mailto:reception@kellyandchapman.com.au)

[www.kellyandchapman.com.au](http://www.kellyandchapman.com.au)

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Preparing a Will is essential. Leaving a clear guide of how you want your assets distributed by your chosen is cost efficient and may avoid lengthy Court battles over "who gets what".

Dying intestate (without a Will) means that there is no guarantee that your assets will be distributed as you would like them to be.

Making or altering your Will is particularly important when life circumstances change. We recommend that you review your Will every three to five years to ensure that it still reflects your wishes. For example, it may be necessary to change your Will if any of the following occur:-

- Marriage
- Divorce or separation
- Enter into a defacto relationship
- Birth of children or grandchildren
- Death of your executor or a beneficiary
- Change in your financial circumstances.

It is important to note that your Will is automatically revoked or cancelled by law if you marry after the Will has been executed unless the Will clearly states that it is made in contemplation of marriage. Such a revocation or cancellation does not affect any appointment or benefit in favour of the new spouse. Divorce does not revoke a Will but it cancels any provision in favour of the former spouse.

Do you have assets like these?

- Superannuation;
- Life insurance;
- Joint bank accounts;
- Real property owned jointly;
- Family (discretionary) trusts;

Or situations like these ...

- Children or other dependents;
- An ex or exes;
- Stepchildren;
- Children from previous marriage;
- Any kind of complex or extended family;

If so, then the standard will (without testamentary trust provisions) that most people have simply isn't good enough for you – and can leave your assets and the ones you leave behind dangerously exposed.

Appointing an Executor

It is important to remember when nominating an Executor, to choose someone you can trust and who understands legal and financial matters.

Although many people see it as a compliment to appoint a friend or relative as Executor they fail to consider that what they are asking is a huge task for someone who may be in a state of grief. The work involved is complex and time-consuming, requiring an understanding of law, accounting and taxation. For these reasons, and the fact that your Executor may die before you, appointing a friend or relative is not always the best idea.

Administering an Estate

Executor's duties may include:

- Organising a funeral;
- Establishing and paying debts and taxes;
- Collecting assets;
- Obtaining Court Orders;
- Establishing beneficiaries and trusts and paying legacies.

It is important to note that an Executor's duties may not cease when the final distribution has been made. They may have to continue in the role of trustee where assets are held for children until they turn 18 or where income from an Estate is not payable to its beneficiaries until some later point in their lifetime.

Guardians

A guardian is a person who has the responsibility for the long-term welfare of your child and has all the powers, rights and duties usually vested in the child's natural parents. Your Executor and Guardian can be the same person but their functions are different and the guardian's include a range of life and lifestyle issues such as where the children will live, standard of living, schooling, health issues etc.

It's a comprehensive Will that includes provisions for "non-estate" as well as estate assets and includes testamentary trust provisions to make sure your assets are protected and passed on as you wish. It takes into proper account the complexities of your individual assets, business and family structure.

Kelly & Chapman will help you

If you suspect your current Will just isn't good enough – or you don't have a Will at all, and need the right one prepared – contact Mr. Misko Vujnovic today on (03) 9557 2915 or by email [mv@kellyandchapman.com.au](mailto:mv@kellyandchapman.com.au) or visit our website [www.kellyandchapman.com.au](http://www.kellyandchapman.com.au).

You may wish to have the benefit of some advice from a qualified financial planner to ensure your plans are as tax effective as possible and that you take full advantage of available pensions or other benefits. We have an association with fully qualified financial planners whose advice and expertise we trust. We can arrange for you to have - a no obligation no cost - initial consultation with one of them if you wish.

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