



Making Your Will Count – Healthy Will Checklist

It is important for everyone over 18 to have a will to make sure their wishes are followed and their assets are distributed as they would want after they die.

If you don't have a will, your assets will be divided according to a formula laid down by the law. If you die without a will (intestate), it is very likely that your estate will not be distributed as you would have desired.

A will is also the place where you can indicate to your family and friends your wishes on other important matters, such as who you want to be the guardians of your children.

Making a will shows a level of care in not wanting to give loved ones any more stress to deal with than they will already face when you pass away. In many ways it is one of the most selfless things you can do.

Regularly review your will

Preparing a will is not a once-off event. It is sensible to review your will regularly, and we suggest that this be done a minimum of every three to five years.

Changes in your life may create problems for others in interpreting your wishes in any will you have already made and may undo all the good work you have done to protect those close to you by making one. It can make your will ineffective or even invalid.

It could be that a will made many years ago is still appropriate, just as it may be that a recently made will is now out of date.

Ideally you should review your will annually, along with other annual events, such as lodging your taxation returns. It is likely that your needs and circumstances will change many times in the course of your life and with those changes it is prudent to consider your will.

Have a lawyer draft your will

With the market flooded with do-it-yourself will-kits, many people make the mistake of thinking that they can draft their will themselves. However, while drafting a will yourself might save you a few hundred dollars now, having a will that is poorly drafted, or a will that does not comply with the law, might cost your family thousands in legal fees if your will is not considered to be valid after you die.

A lawyer will be aware of all the complex rules which regulate wills, and can ensure that your will complies with all of the necessary requirements. In addition, a lawyer will know how to use the correct language to ensure your wishes are drafted in a way that is 'crystal clear', leaving no room for misinterpretation. For example, a person might say in their will 'I leave my favourite ring to my youngest daughter'. In this scenario, it would be very difficult to identify which of the persons' rings was their favourite. In addition, if after drafting the will, another daughter was born and the will not amended, then more difficulties arise – the person may have intended Daughter A to receive the ring, but due to the ambiguous language used in the will, Daughter B ends up with it.

Here at RRR Lawyers, we have over 35 years' experience in drafting wills. We are experts in legal drafting, and offer a sensitive and considerate approach to drafting what may be the single most important document in your life. Enquire about our competitive rates today.

Healthy will checklist

There are a number of life events that can impact on your will and which mean you need to revisit and update it.

Here is a checklist of life changes which can impact on the validity of your will and which you need to consider in examining the legal health of your existing will.

- Have you married? Or separated from your partner?
- Have you had any children?
- Is the person you named as executor, to carry out the wishes in your will, still alive and well enough to do the job?
- Have the circumstances of any beneficiaries changed to make you reconsider your wishes, or have any of them died?
- Have you nominated any specific gifts that are no longer valid or don't exist, for example, have you sold a property that you had left to someone in the will?
- Have you acquired any new assets that you would want to make specific plans for in your will?

Superannuation

At the same time as you check the health of your will, you need to check your super and life insurance, which is often now a part of your super policy.

Many people assume their superannuation will be divided up in accordance with the wishes in their will, but that is not necessarily the case. You need to look at your superannuation policy to check how you have nominated that your superannuation should be allocated, and that it is still allocated in the way you want.

At the same time, check the division of any life insurance you have in your policy, and update it if necessary.

Conclusion

The important thing is to consider your circumstances at every major personal milestone in your life.

Any will you have made is likely to become out of date and no longer accurately represent your wishes in some way following changes in your life, possibly within a few years of drawing it up. It will depend on circumstances that are unique to you.

If you would like to discuss a new will or changes in your circumstances and a review of your current will please call us on 03 9387 2424 or email info@rrrlawyers.com.au today and see how we can help.