



In The Know

Your assets – your will

Generally, anyone over the age of 18 who is of sound mind can make a will. Yet, two in every five Australians still neglect to do so. Some of us believe we own nothing of value and do not require a will. Others think that our situation is straightforward and our assets will go to the right person anyway. What many don't realise is that dying without a will can have disastrous implications for friends and family left behind.

A will is a document expressing what you would like to happen upon death. It can be made only during your lifetime, but it only becomes effective once you die. Having a will is a much more cost-effective option than dying without one. If there is a will, your beneficiaries are immediately notified and the process of distribution of their inheritance is generally much smoother. By contrast, if there is no will, your estate will be distributed in the manner prescribed by legislation. It can result in your assets not being distributed in accordance with your wishes.

Imagine this. Jane and John are married and have two minor children. John is the primary income earner in the family, while Jane works part-time and looks after the children. Most of the assets are in John's name.

John dies from a sudden heart attack without leaving a will. Jane is struggling to maintain the home mortgage repayments. Unfortunately for Jane, because there is no will, her husband's assets (\$500,000) are distributed in accordance with the statutory formula. The family lives in New South Wales, which means that:

- \$200,000 plus half of the remaining amount (\$150,000) goes to Jane – the total of \$350,000
- the remainder (\$150,000) must be held in trust for the children until they reach 18.

Jane is devastated. If John had a will in place and left all the assets to her, she would have used them in different way – to repay their home mortgage, for example. However, as there is no will, Jane effectively loses access to the remaining assets and flexibility that comes with it.

The administration of the estate also becomes a lengthy process. In addition to dealing with the pain and trauma of losing her husband, Jane has to apply to administer the estate and to provide a large amount of paperwork and documentation to determine the relevant family entitlements.

What many people do not realise is that the benefits of making a will are not restricted to the distribution of your assets to your dependants. A will can also contain specific provisions that cater for certain beneficiaries (such as a child) to ensure estate assets are used for a specific purpose (eg. establish a trust for that person). Even if you do not have many assets, a will is still extremely important as it enables you to make various appointments, such as the guardian for a child or an executor to manage certain affairs (such as funeral arrangements).

Please speak to your legal professional to put in place a valid will or to ensure that your existing will is still appropriate for you.