



Need a solicitor?

If you do not have a solicitor, contact the Queensland Law Society's Referral Service on 07 3842 5842.

Making your Will

Can I prepare my own Will?

You can prepare your own Will but you do so at the risk of causing emotional and costly legal battles amongst relatives.

When preparing a Will, a number of legal requirements must be followed. Failure to follow these requirements can invalidate the Will. If this occurs, the law may consider that you have no Will and the laws of intestacy will apply unless the invalidity is rectified by court process which can be expensive.

If your Will is considered valid but your words fail to accurately express your wishes, your Will may need to be interpreted by the court.

Is there such a thing as a 'free' Will?

The Public Trustee and trustee companies will prepare your will at no cost. However, they are then appointed as executor and after your death, are entitled to charge commission for administering your estate. This may be calculated as a percentage of the estate's value.

Legal costs

Just as Wills vary in complexity the legal costs of their preparation differ.

At your first appointment, ask your solicitor about the costs involved in drawing your Will.

A legal guide to ensuring your assets are distributed according to your wishes



The information in this brochure is merely a guide and is not meant to be a detailed explanation of the law. The Queensland Law Society recommends you see your solicitor about particular legal problems.



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We all accept that one day we will die.

When that day comes, if you don't have a Will your assets could be distributed in a way that you would never have intended.

Those whom you may have wished to have received benefits from your assets are not guaranteed to get any.

If you have your solicitor prepare your Will, you can be assured that your assets will be distributed according to your wishes.

What is a Will?

A Will is a legal document which will as far as possible ensure your assets are distributed according to your wishes after you die.

Your Will can cover all your assets such as your house, land, car, shares, bank accounts, and insurance policies.

In your Will you appoint an executor to distribute your assets to the beneficiaries (those you choose to receive your assets). Your choice of an executor should be carefully considered as the role can be very demanding and often complex, requiring legal and financial knowledge.

Any person 18 years of age or older (or under 18 if married) and of sound mind can make a Will.



What will happen if I don't make a Will?

"Intestacy" means dying without a Will. If you die without having made a Will, your assets will be distributed according to rigid formulae set down by the laws of intestacy.

Those laws may:

- force the sale of the family home or family car so other beneficiaries can claim their share of the assets
- not provide future financial protection for your children or grandchildren
- leave incapacitated members of your family without adequate support
- give your assets to the government, if you have no relatives.

Furthermore, you will have no say in who administers your estate and who is appointed guardian of your children if they are under 18 years of age.

Preparing your Will

A Will is a complex legal document which should be prepared by your solicitor.

Before visiting your solicitor, consider:

- who to appoint executor
- who to appoint guardian of your children
- what are your current assets and liabilities
- who should receive your assets
- how you would like to provide for your children's future

Your solicitor will not only ensure your Will is properly drawn up and correctly signed and witnessed, but may advise you on:

- the appointment of an executor, their powers and remuneration
- the appointment of your children's guardian
- your legal obligation to provide for your family, to avoid challenges to your Will
- if necessary, the adequacy of your life insurance

- minimising capital gains tax liability
- funeral arrangements.

Your solicitor will also keep your Will in safe custody for you if you wish.



Changes to your Will

You are free to alter your Will at any time and as often as you wish.

Your circumstances can change significantly over time so it is advisable to review your Will regularly.

On marriage, your current Will is automatically revoked unless it states it is made in contemplation of a specific marriage. If you divorce, your divorced spouse is not entitled to any assets under your Will unless you specify otherwise.

You may also wish to change your Will if any of the following occur:

- birth of children or grandchildren
- death of a beneficiary or executor
- financial changes
- home or property changes

If you wish to alter your Will seek the guidance of your solicitor.