

Making your Will count – Healthy Will Checklist

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

If you do not have a Will your assets will be divided according to how the law dictates in the rules of intestacy, that is, when you have not made a Will. If you die 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.

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.

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- Have you nominated any specific gifts that are no longer valid or do not exist, for example, have you sold a property that you had left to someone in the Will?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 superannuation and life insurance, which is often now a part of your superannuation policy.

Many people assume that 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) 9331 3144 or email info@schembrilawyers.com.au today.

Case Summary - Ensure your family is protected

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A man dies unexpectedly in 2009. He is a divorced father of 2 children. He has a partner who he has been casually dating for a period of time. He adores his children and remains good friends with his ex wife.

His Will at the time of his death was out dated. His Will still left his Estate to his ex wife and then to his Children. Because of the fact he had been divorced for many years and his ex wife was taken care of in the matrimonial separation, his Children were to be sole beneficiaries of his Estate. Upon his death, however, his current partner contests his Will on the basis that she had not been provided for in his Will and argued that it was out dated and not reflective of his current circumstances.

The young barley adult Children are forced to defend their rights to their fathers Estate against a woman that they barely knew. Superannuation benefits, property interests and even the disposal of the man's body are disputed. The matter takes 2 years to be finalised and costs the Estate in excess of \$100,000.00. At the conclusion of the proceedings, the Children are left with half of their father's remains, 60% of his Superannuation entitlements and 75% of his property interests.



Incorporating the practices
of O'Brien & Galante and
Conlan Lawyers

ESSENDON OFFICE:

Suite 6, Level 2
200-202 Buckley Street,
Essendon, Victoria 3040
DX 33601, Essendon
PO Box 88, Essendon 3040
Tel: (03) 9331 3144
Fax: (03) 9331 3166

CARLTON OFFICE:

Level 1
135-139 Cardigan Street,
Carlton, Victoria 3053
DX 95308, Carlton MBE
PO Box 63, Carlton South 3053
Tel: (03) 9347 0355
Fax: (03) 9347 0366

www.schembrilawyers.com.au
info@schembrilawyers.com.au

Schembri & Co Lawyers Pty Ltd
ABN 49 103 404 995