

# **WHY HAVE A WILL?**

## **YOU CHOOSE YOUR BENEFICIARIES**

If you die without a valid Will, your Estate is distributed according to the rules laid down by the Government. This may not fit with what you would have wished. For this reason, the law gives people the opportunity to set out their wishes, before they die, in a Will. You can change your wishes at any time during your lifetime, by making a new Will, as long as you remain capable of doing so.

## **IT IS ESSENTIAL TO HAVE A GOOD WILL**

The law now allows many things in writing to be a “Will”. However, if the “Will” does not comply with certain formal rules and regulations, it has to be placed before the Court after a person dies, with a full application, evidence, and affidavits, so that a ruling can be made on whether or not it really does constitute a “Will”. This can be very expensive and time-consuming.

Making such a “Will” is taking quite a risk, as the Court may (after considerable time and cost) rule against the “Will”, or, even if the “Will” is accepted, it may contain many problems.

Some words written into a Will may have a different legal effect to what you believe is their actual meaning. Failure to include certain words, or use of words that might (under the law) have a wider general meaning that you would expect, could mean that your Will may have a different result to what you intended.

## **BEWARE OF “WILL KITS” AND OTHER D.I.Y. WILLS!**

These are usually risky, due to the circumstances explained in the previous paragraph. You must be absolutely certain that everything is perfect, and that you understand the full effect of all the wording you have written in your Will, otherwise your beneficiaries can be left with a “Will” full of problems! Is the saving of a few dollars worth the risk?

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## **WHO SHOULD MAKE A WILL?**

Everyone over 18 years of age should have a valid Will, (and review it as your life circumstances change). Even if you have no major assets at present, - the possibility still exists that you may die with considerable assets. (You may inherit from someone else's estate, or even with the lottery!).

## **BE AWARE OF THE FULL COST**

Usually, a Trustee company or the Public Trustee will draw a Will for you without charge, but that is normally conditional upon you appointing the Trustee as your Executor. You need to be aware that the appointment of the Trustee as your Executor would give the Trustee the right to charge a commission in respect of your Estate when you die. The usual commission (at date of publication of this Information Sheet) is in the range of 4.5% on the first \$100,000.00; 3.5% on the next \$100,000.00; 2.5% on the next \$100,000.00 and 1.5% on the balance. Your "Estate" is comprised of all the assets you own when you die (other than jointly-held assets where a survivor remains living).

However, if you appoint your main beneficiary or beneficiaries as Executor(s), it is possible to avoid paying commission. Your Executor can employ a solicitor to process the Estate at a fraction of the cost charged by professional Trustees.

## **YOU SHOULD KEEP YOUR WILL UPDATED**

Certain events, like marriage or divorce, will affect your Will. Your circumstances, family, or asset situation may have changed since your last Will. You may have forgotten what is in your Will, and it may not reflect your present wishes.

If you would like a Will Review (to see if your Will still fulfils your requirements), please do not hesitate to phone us. At certain times in the year, or in certain circumstances, we may offer a **SHORT WILL REVIEW** either free, or at a greatly reduced cost, as a service to our existing or new clients. This would be sufficient to let you know if your Will provides what you currently want. For most people, this would probably be the case. Please ring us for details, if you are interested in finding out about this service.

(Of course, if you require lengthy or complex advice, or a change in your Will, this would be at our normal fee. You are under no obligation to accept any recommendations in our Review).

## **YOUR FAMILY AND HARD-EARNED ASSETS DESERVE A GOOD WILL**

Wills are not expensive, when you consider what is at stake, and the risks of “getting it wrong”. We try to keep our costs as low as reasonably possible, to encourage people to have a professionally-drawn Will.

You have (or will put considerable work into accumulation your assets. For a relatively small cost, you can ensure that you have a good Will.