

## Making A Will



### What Is A Will?

A will is a legal document that sets out how you want the things you own to be distributed when you die. By making a will you have taken a positive step to:

- provide for the people you care about.
- leave particular items to certain people.
- appoint a person you trust to carry out the instructions in your will (your executor).
- appoint a guardian of your infant children.

- make a gift to charity if you wish.
- leave any other instructions you may have (for example, about your funeral arrangements).

Making a will removes the doubts and difficulties that can arise when there is no evidence of the deceased persons' wishes. After your death your property and belongings are referred to as your estate.

### Why do I Need a Will?

If you do not have a will, you do not

have any say about how your estate is distributed. If you die without a will (known as 'dying intestate') your estate will be distributed to your relatives on the basis of a legal formula (called the 'intestacy rules'). If you die intestate and you do not have any relatives closer than a first cousin, your estate will go to the government.

### **What Makes A Will Valid?**

A will generally needs three things to be valid:

- It must be in writing.
- It must be signed.
- Your signature must be witnessed by two other people who also need to sign the will.

Even where you have met these three requirements, your assets cannot be distributed immediately. Sometimes, a court needs to grant probate first.

### **A Will Is Cancelled:**

- When a new will is made.
- Upon the marriage or remarriage of a person.

- Any gifts to a spouse or appointment of a spouse as executor is cancelled upon divorce.

Your will should be reviewed at least every five (5) years and possibly updated when your circumstances or asset holdings change.

This article is meant for general information only and should not be relied upon as legal advice.

Rahul Nand is an experienced Lawyer and can be contacted at RN Legal on (02) 9191 9293 or rahul@rnlegal.org.

