



**brennan  
law  
partners**

# Guide to Making a Will

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What you need to know

# Making a Will

You've worked hard all your life to build up assets and wealth. You want to pass these assets to the people or organisations of your choosing upon your death. After all, the last thing you want happening during that difficult time is for your assets to be distributed in a way that you would not be happy with!

A will is the most effective way of ensuring that your assets and possessions are transferred to the people you wish in the manner you desire after your death.

## What is a Will?

A will is a formal document that sets out:

- who is to manage your estate (your assets and possessions) upon your passing;
- how your estate is to be divided;
- who is to receive each part of your estate and when they are to receive it.

In order to be valid, your Will must be signed by 2 witnesses.

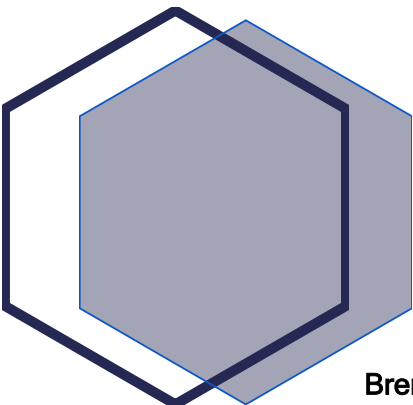
## Do I need a Will?

It is not compulsory to maintain a Will.

However, if you do not have a valid Will (known as dying 'intestate'), a government formula will dictate how your estate will be divided up. It is unlikely that this formula will reflect your intentions with respect to the distribution of your estate, particularly if your circumstances are in any way unusual.

It is recommended that anyone with any property, possessions or other assets makes a Will.

This is a guide to the basic considerations and queries that may come to mind when thinking about a Will.



## **When should I make a Will?**

Anyone over the age of 18 can make a Will.

It is also important to ensure that your Will is up to date and accurately reflects the estate that is to pass upon your death. Therefore, Brennan Law Partners recommends making or updating your will if:

- you have recently acquired or disposed of any assets;
- you have a new child or children;
- one or more of your intended beneficiaries passes away;
- you wish to add or remove a beneficiary from your Will;
- you get married, are in a defacto relationship, divorce or re-marry;
- your family situation changes in a way that would impact your Will;
- your executor becomes unable to perform the role of executor;
- you wish to change your executor.

## **Can't I just draft my own Will?**

There is no requirement to have your Will drafted by a lawyer.

However, caution must be exercised when considering whether to draft your own Will. There are many (and often very strict) rules regarding the structure, wording and formalities of a Will which you may not be aware of and which may impact on the way in which your estate is distributed.

Furthermore, having an imperfectly drafted Will creates an increased likelihood of challenges being made to your Will and significant costs being incurred by your estate in defending that challenge.

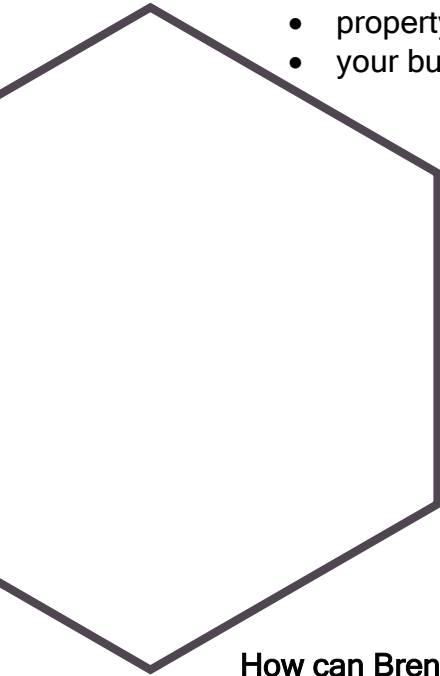
## **What is usually included in my Will?**

Most assets, property or items that you own can be distributed under your Will, including:

- your home
- your investment properties
- your share portfolio
- your bank accounts, cash and payout entitlements
- your bonds
- your jewellery
- your cars
- some trust interests
- your other personal effects

However, there are some items that you may think form part of your estate, but which cannot be included in your Will, including:

- superannuation
- insurance policies
- property which you hold as a joint tenant
- your business (although you may pass your interest in the business)



### **How can Brennan Law Partners assist?**

We can provide assistance and advice with respect to:

- Making a Will
- Estate Planning
- Powers of Attorney
- Contesting a Will
- Advice for Executors

If you have any questions regarding any information in this BLP Guide, we welcome you to contact us at any time.

