

DO YOU HAVE A WILL ?

Every person should make a Will and should notify his/her family of its whereabouts.

The consequences of a person dying intestate (i.e. without leaving a Will) are that the assets will be distributed according to the provisions of the Administration and Probate Act. For instance, in Victoria, the wife receives the personal chattels and effects and the first \$100,000 of the net estate plus one third of the balance over \$100,000. Any children receive the remaining two-thirds in equal shares and if they are under 18 years of age the two-thirds can only be invested in Trustee authorised securities. If there are no family members or other relatives the net realised estate will go to the Crown - in other words into the Government coffers !

Other disadvantages of dying intestate are :-

- (a) No one can take charge of the assets until a grant of Letters of Administration is obtained from the Supreme Court ;
- (b) There is uncertainty as to whom will be granted Letters of Administration.
- (c) If any of those entitled to share in the estate are under the age of eighteen years a Bond has to be obtained from an insurance company and this is an expensive outlay.
- (d) Powers, including powers of investment, are limited to those contained in the Act.
- (e) The possibility of one of those entitled to share in the estate also dying intestate before they receive their entitlement.

Legally, no particular form is required for a Will, but it is strongly recommended that it be prepared by a Legal Practitioner because if there is any ambiguity in the wording of the document, it may be necessary by the Executors appointed to obtain an opinion from the Court as to the intended meaning, and this could be an extremely costly exercise.

There is a saying in the legal profession, that the Legal Practitioner's best friend is the person who writes his/her own Will !

It is important that the terms of a Will are designed to meet the circumstances which would arise if death occurred immediately and should also cover future occurrences - viz. children - their guardianship - if minors, the age they can take their shares, etc. Even beloved pets can be dealt with in a Will.

A Will is revoked - made void - on the testator marrying, except if the Will is made "in contemplation of marriage". It is therefore essential that a new Will be made immediately a person marries.

A WILL SHOULD BE REVIEWED AT LEAST ONCE EVERY FIVE YEARS AND CERTAINLY IF THERE IS ANY MAJOR CHANGE IN A FAMILY SET-UP.

PLEASE CONTACT GILL CHAMBEAU FOR A FREE, NO OBLIGATION, APPOINTMENT TO DISCUSS YOUR NEEDS.

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