

INSTRUCTIONS FOR WILLS FOR HUSBAND AND WIFE



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Names:

Husband:

Wife:

Address:

Telephone contact number(s):

Husband: (h) (w) (m) (fax)

Wife (h) (w) (m) (fax)

Email:

These notes are to assist us to prepare mutual husband and wife wills. The issues which we mention below cover what husbands and wives commonly put in their wills, but you can generally make a will in whatever form you like. If you believe that there are special matters that need to be considered in your wills, please speak to us.

Before we can advise you on the most appropriate form of Will we need you to consider a few things.

If you own property, what is the approximate value?	\$
What are the approximate values of your shares in your home?	Husband: \$ Wife: \$
What is the approximate value of your other assets that will be included in your estate?	Husband: \$ Wife: \$
What is the approximate value of superannuation that will pass directly to beneficiaries and not be part of your estate?	Husband: \$ Wife: \$
Are any of your assets shares in private companies? If "Yes" please provide details of the company, shareholding, shareholder and approximate value	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you have a Family Trust?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is this a second, or later marriage?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there children from any previous relationship who need to be provided for?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you have children what are their names and ages?	

If you have ticked "Yes" to any of the above questions please complete this form but we may need to speak to you about the issue.

Probate

When a person dies, somebody has to deal with the money, property and possessions which they have left (called their 'estate') by:

- *collecting all the money;*
- *paying any debts; and*
- *sharing out the estate among the people who are entitled to it.*

*The persons named in the Will as **Executors** must make an application to the Supreme Court to be formally appointed as **Executors**. The probate registry then sends out a legal document (a 'Grant of Probate') which allows the **Executors** to deal with the estate. This process is often called 'obtaining probate'.*

Who should be the Executor(s)?

Most spouses appoint the other spouse as sole executor and this is quite acceptable. However, if the other spouse has died or is not capable of applying for a grant of probate you will need to appoint a substitute executor or executors. In that case we recommend that you appoint at least two executors. It is common for a husband and wife to appoint the same executors since it is possible that the two estates may have to be administered together if you both die within a short period of time.

- I appoint my husband/wife as executor.
- I do not wish to appoint my husband/wife as executor. I appoint the following as my executors.
We suggest at least two people.
Name, address and relationship to me.

- If my husband/wife dies before me or is not capable of applying for a grant of probate I appoint the following as my executors. *We suggest at least two people.*
Name, address and relationship to me.
-

Who will benefit from your estate?

Many spouses leave their whole estate to the other spouse if he or she is alive and has survived them by 30 days.

- I leave my whole estate to my spouse if my spouse survives me by 30 days.

- I do **not** wish to leave my whole estate to my spouse if my spouse survives me by 30 days.

What if your spouse dies before you and you have children?

If the other spouse has died, many spouses leave their estate to their children who survive them and attain a certain age. A person is considered to be an adult at 18. If the child is under 18 the Executor/Trustee must hold a child's share in an estate until the child turns 18. You do not have to give a child a share at 18 and you can make the age higher.

- If my spouse has died before me I give my estate to such of my children as attain the following age: _____ years. *(Please insert the relevant age).*

If you have said that you wish to give your estate to your children and do not have any children who reach the age which you have specified, you could give that child's share of your estate to your grandchildren who are the children of your deceased child. In some cases people choose to give a share to the spouse of your deceased child.

If any of my children has died before me

- I give my child's share of my estate to his or her children when they attain (_____) years. *(Please insert the relevant age).*
- I give to my child's spouse _____ % of my child's share of my estate and the balance to his or her children when they attain (_____) years. *(Please insert the relevant age).*
- I do not wish to give my child's share of my estate to her or his children or spouse.

What if there are no children or grandchildren?

You may not have children or grandchildren, or you may have children or grandchildren who die before you. In that case you must decide who you will leave your estate to. We remind you that you may give your estate to any person. Some of the possibilities which you might consider are:

1. *It is common for a wife to say in her will that she leaves one half of the estate to nominated members of her family and the other half to nominated members of her husband's family.*

- I give one half of my estate to the following members of my family:
(Names and addresses)

- I give the other half of my estate to the following members of my spouse's family:
(Names and addresses)

2. I give my estate to be divided among the following people in the following shares :
Name, address and share

Specific gifts

You may wish to make a specific gift to a person or charity, such as money or an object. If you wish to give a fixed amount of money you could consider whether to increase the gift each year between the date of your will and the date of your death by the rise in the Consumer Price Index. Such a provision ensures that the gift does not depreciate and that it maintains its value. Please note that if you make a gift to a charity you should give the full name of the charity, and if possible its ABN.

- The following gifts are only to apply if none of the people specified above survive me **OR**
- The following gifts are to be made even if some of the people specified above survive me. The circumstances in which the gifts are to be made are *(for example only if my spouse has died)*:

- I make the following gifts of money or property.

Name and address	Gift	Does CPI apply? Yes or No.
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Guardian

If you have children who are under 18 years, you should consider who will care for them if you and your spouse both die. You do not need to specify any person if the people who will naturally care for the children are people you are happy with. However, if you wish to nominate particular guardians you can do that in you will. Nominating guardians does not guarantee that those people will be appointed as guardians, but your wishes will be taken into consideration if guardians have to be appointed.

An Executor is permitted to spend money on the maintenance and education of a child under 18 who may receive a share of the estate on turning 18 (or some later date which you have specified). It may be appropriate to pay some of those moneys to the child's carers or guardians. We therefore suggest that you do not appoint the same persons as both Executors and Guardians, although there is nothing to stop you from doing this. If the Executors manage the child's money, and make payments to the Guardians only after carefully considering the child's needs, the risk which might otherwise arise of the Guardian being accused of improperly spending the child's share of the estate will be reduced.

- I do not wish to appoint any guardians, or this is not relevant.
- I wish the following guardians to be appointed.

Names and addresses

_____ (Husband Signature) _____ / _____ / _____ (Date)

_____ (Wife Signature) _____ / _____ / _____ (Date)