

3 Reasons Your Will Could Be Invalid

So... a few years ago (or maybe more than a few) you spent some time and money getting your affairs in order. You sat down and worked out how you wanted your assets to be distributed when you die. You might have done this yourself using a Will Kit or you might have sought advice from a Solicitor or the Public Trustee.

Either way, it's quite possible that the time you spent back then will NOT result in your assets being distributed the way you want now!.....In fact, if your Will is invalid, you will die 'intestate' and your assets may be distributed by your state's pre-determined formula instead. It's estimated that Nearly Half of Australians die intestate.

There are a lot of reasons why your Will could be invalid but here are our top 3:

1. Incorrect paperwork

This generally occurs when the will-maker or witnesses have not signed the paperwork correctly, here's 3 examples:

- a. The Will is not in writing and signed by either the will-maker or a testator in the presence of, and at the direction of, the will-maker
- b. The Will-maker did not sign their acknowledgement in the presence of witnesses.
- c. Two or more witnesses have not signed the Will in the presence of the Will-maker.

2. Marriage or Divorce

- Many Australians are unaware that their Will becomes invalid when they marry – unless you made a Will just prior to marriage that states it is made "in contemplation of marriage".
- Divorce can also automatically invalidate your will in some states, however in others it may affect your former spouse's ability to inherit gifts and/or remove them as executor.

3. Your legal rights as a will-maker may have changed

It's likely that some significant life events have occurred and a few things have changed since you initially drafted your will. If that's the case, then your legal rights as a will-maker may have changed.

Factors that could change this are:

- a. Separating
- b. Having children or grandchildren
- c. The death of a spouse or any beneficiaries
- d. A significant change in your financial situation

What to do about it?

Your Estate Plan including your Will should be reviewed at least every 5 years or whenever there is a major event in your life (a birth, death, marriage, change in insurances or superannuation, acquisition or disposal of property or other assets). Reviewing and updating your Will when needed is just as important as creating it and it's not usually complex, time consuming or costly especially if you seek guidance from your financial planner.

At CFL we can help you create or review your Estate Plan, which you can use to create your Wills, Powers or Attorney and other legal documents, potentially saving you thousands. Just call us on 3328 8988 to book in a 15 minute focus call to discuss your needs.

Sources: The Public Trustee of QLD, AMP Limited, Colonial First State, IOOF, Moneysmart.



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