

# DILLON LEGAL

Commercial Litigation | Insolvency & Bankruptcy | Debt Collection | Wills & Estates

## Will Instructions to your Solicitor

### What is a will?

A will is a legal document that sets out a person's instructions for what happens after they die. In the will a person can:

- give away their assets to specific people and organisations
- nominate who will take charge of their instructions, called an executor
- nominate who will look after any children under the age of 18 years, called a guardian
- set out their funeral wishes

### Why have a will?

If you do not have a will, then the Intestacy Rules set out in legislation will determine how your estate is distributed. The Intestacy Rules may not follow your wishes. For example, many people assume everything will go to their spouse, but this is not the case if you have children.

Not having a will not only means your wishes will not be carried out, but it may also increase the cost of your estate administration, cause significant time delays and be a burden to your family and friends.

### Who can challenge a will?

In Queensland, a married spouse, de facto spouse, children and a financial dependant can make a claim against a will if they believe they were not provided for adequately by the will. A claim can be made against a will for up to 6 months from date of death.

## Information Needed When Making a Will

### Summary

- Your personal details and identification
- Full names and addresses of people mentioned in your will
- Assets and liabilities information
- Executors
- Gifts in your will
- Funeral wishes
- Who will make decision for you if you have reduced mental capacity

To assist in the preparation of your will, please complete as much of this form as possible.

If you have any questions or require assistance with wills and estate administration, please contact the team at:

### DILLON LEGAL

Suite 35, 137 Scottsdale Drive  
Robina Qld 4226

**Anita Thomson**  
Solicitor  
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**1. PERSONAL DETAILS AND IDENTIFICATION**

Your personal information, please complete below:

<b>Client Information</b>			
<b>Party A (single client making will or Spouse 1)</b>		<b>Party B (Spouse 2)</b>	
Title		Title	
Surname		Surname	
Given Names		Given Names	
Occupation		Occupation	
Date of Birth		Date of Birth	
	M F		M F
Identification		Identification	
<b>Please provide one form of photo identification, such as drivers licence or passport</b>			
Marital Status		Marital Status	
Residential Address		Residential Address	
Postal Address		Postal Address	
Phone		Phone	
Email		Email	
Previous wills	Yes No	Previous wills	Yes No
Referred by		Copies	

**2. YOUR CHILDREN**

Your children's details:

<b>Family Information</b>		
<b>Children of this Marriage</b>		
Full Name	Date of Birth	Address
<b>Children of Previous Relationship</b>		
<b>Party A</b>		<b>Party B</b>

**3. ASSETS AND LIABILITIES**

Please complete as much information as you can (for section you are unsure of, we can assist):

**Asset and Liability Information**

We collect asset information as it is relevant to your estate planning. Some assets do not pass through your will, for example, superannuation. If you provide us with details of your assets then we can advise you on how to ensure that all of your assets pass in accordance with your wishes after your death.

**What are your major assets and liabilities? –eg. home, investment property, bank accounts, shares, investments**

Party A	Party B

**Do you own your home jointly or as tenants in common?**

Jointly means if one of you dies, the property passes automatically to the survivor. Tenants in common means you each own a percentage that you can gift how you please. This information is specified on the title for your home. You may have received a confirmation of the registration when you purchased your home showing this information.

**Superannuation – Do you have superannuation?**

Superannuation benefits are held in a trust. On death the trustee of the trust determines who will receive the death benefit unless there is a valid Binding Death Benefit Nomination in place. If there is a Binding Death Benefit Nomination then the death benefit will be paid to the person nominated. Superannuation death benefits can only be paid to spouses, children, dependents or the estate of the deceased person. There are different tax implications depending on who receives the death benefit. We can assist you with these issues if you provide us with information regarding your superannuation.

Party A	Party B
Name of Superannuation Fund, Trustee, Members, Value of membership account.	Name of Superannuation Fund, Trustee, Members, Value of membership account.
Have you nominated a beneficiary of your superannuation; who?	Have you nominated a beneficiary of your superannuation; who?

**Life Insurance - Do you have life insurance?**

You should check your life insurance policy to see who the money will be paid to on your death.

Party A	Party B
Company superannuation is with?	Company superannuation is with?
Have you nominated a beneficiary of your life insurance; who?	Have you nominated a beneficiary of your life insurance; who?
Who is the owner of your life insurance?	Who is the owner of your life insurance?

**Business Interest - Do you own shares in a private company?**

If yes please provide details of the company.  
Name of Company, Shareholders, Assets Owned, Constitution

Party A	Party B

**Trusts - Do you have a trust? For example, a family trust, unit trust or discretionary trust.**

If yes please provide details, a copy of the trust deed and your accountants contact details.  
Name of trust, Trustee, Beneficiary, Assets owned, Trust Deed

Party A	Party B

**4. EXECUTORS**

Who do you want to appoint as executors of your will?

Your executors are people you appoint in your will to follow the instructions you set out in your will. Their tasks include: arranging your funeral, taking control your assets after death, attending to all paperwork, paying your debts and then distributing the gifts as you have outlined in the will.

**Things to consider when choosing an executor:**

- One to four people can be executors at any one time.
- You can appoint the people you are giving assets to, would they be able to handle the job of executor.
- There is a lot of administration and paper work. You want to appoint someone who can do a good job of paperwork, has the time and is very trust worthy with money.
- If children are receiving the assets then who would have their best interests at heart.
- It is a good idea to name a few executors in case your first choice is not available.

Party A		Party B	
1 - Executor		1 - Executor	
2 - Executor		2 - Executor	
3 - Executor		3 - Executor	
4 - Executor		4 - Executor	
Are any executors a solicitor or accountant?    Yes    No		Are any executors a solicitor or accountant?    Yes    No	

**5. GUARDIANS OF CHILDREN**

If you have children under the age of 18 years, who would you appoint to make decisions for them in regard to whom they live with and where they go to school? In other words, who would you appoint as their guardian?

Party A		Party B	
1 – Guardian of children		1 – Guardian of children	
2 – Guardian of children		2 – Guardian of children	

**6. GIFTS IN YOUR WILL**

Who do you wish to give your assets to after death?

**For example:**

- All to spouse and when both parents die then to children
- Percentages (%) to various people or charities
- Gifts of money
- Specific gifts of items, such as, car, jewellery, paintings, household contents and furniture.

**Will Instructions**

How do you wish to give your assets away after your death?	How do you wish to give your assets away after your death?
<b>SOLICITORS NOTES</b>	
Does section 33N apply? Gifts to issue	Are there estate debts to be paid from residue?
Non-resident beneficiaries, who bears tax?	Testamentary Trust – Trust Fund, Trustee, Beneficiary, Appointer

Also, consider who you would give your assets to in your will if your immediate family does not survive you.

Party A	Party B
If the people above die before you then who do you wish to give your assets to in your will?	If the people above die before you then who do you wish to give your assets to in your will?

### Asset protection and tax effective wills

Based on current asset values including superannuation and life insurance are you giving each of your beneficiaries \$500,000 or more?

Yes No

Would you like to ensure that the assets you are giving to your beneficiary will be protected, in case the beneficiary is sued or goes through a marriage separation?

Yes No

Are you interested in giving your assets to your beneficiaries in a tax effective way, so that the beneficiaries will be able to minimise tax?

Yes No

If you have answered yes to these questions then you may like to include a testamentary discretionary trust in your will.

Please refer to our information sheet about testamentary discretionary trusts.

### New spouse and children from previous relationship

Do you have a new spouse and children from a previous relationship?

Yes No

The law provides that you must provide for both your spouse and children.

Please keep in mind when making your how you will balance financially providing for your spouse and children.

### 7. AGE OF CHILDREN TO RECEIVE GIFT

If you are giving assets to children under the age of 18 years, would you like to specify that they must be older than 18 to receive their gift, for example, 21 years, 25 years or 30 years.

Party A		Party B	
Age to receive gifts	18 21 25 Other, please specify Not applicable	Age to receive gifts	18 21 25 Other, please specify Not applicable

### 8. FUNERAL WISHES

Do you want to specify any funeral wishes in your will, for example, being buried or cremated?

Party A			Party B		
Funeral wishes	Burial	Cremation	Funeral wishes	Burial	Cremation
Organ donation?	Yes	No	Organ donation?	Yes	No

### 9. LOANS TO BENEFICIARIES

Have you loaned money to people and do you want this repaid or forgiven on your death.

Party A	Party B

## 10. SEPARATION FROM PREVIOUS SPOUSE

Do you have any division of property matters outstanding from the separation and divorce from your previous spouse?

Party A	Party B
When did the previous marriage end?	When did the previous marriage end?
Has the divorce been finalised?	Has the divorce been finalised?
Was there a property settlement sealed by the Court?	Was there a property settlement sealed by the Court?
Is there maintenance payable to spouse or children?	Is there maintenance payable to spouse or children?

## 11. PROFESSIONAL ADVISERS

Do you have any professional advisers, such as, accountant, financial planner or solicitor that hold information for you that may assist your executor when you die?

Party A	Party B
Name of Financial Planner	Name of Financial Planner
Name of Accountant	Name of Accountant
Name of Solicitor	Name of Solicitor

## 12. WHO WILL MAKE DECISION FOR YOU IF YOU HAVE REDUCED MENTAL CAPACITY

Consider who you would trust to manage your financial affairs and personal and health decisions for you in case you lose mental capacity. The people you want to appoint to make these decisions are called your attorneys under an enduring power of attorney.

### Enduring Power of Attorney Instructions

Enduring Power of Attorney - who you would trust to manage your financial affairs and make personal and health decisions for you in case you lose mental capacity. It is a good idea to name a few attorneys in case your first choice is not available.

Attorneys – over 18 years, not paid carer or healthcare provider, not bankrupt

Party A	Do you have existing Enduring Power of Attorney? Yes No	Party B	Do you have existing Enduring Power of Attorney? Yes No
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### PERSONAL AND HEALTH DECISIONS

1 – Full name Attorney personal and health matters		1 – Full name Attorney personal and health matters	
Address		Address	
2 – Full name Attorney personal and health matters		2 – Full name Attorney personal and health matters	
Address		Address	
3 – Full name Attorney personal and health matters		3 – Full; name Attorney personal and health matters	
Address		Address	
Do you want the same attorneys for financial matters? Yes No		Do you want the same attorneys for financial matters? Yes No	

