



**PRESTIGE SOLICITORS
& ASSOCIATES**

WILL KIT



Peace of mind for your whole family

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DISCLAIMER:

Prestige Solicitors & Associates believes that all information provided in this package is accurate and up-to-date as possible. However, the law is complex and constantly changing, and readers are advised to seek professional legal advice before any course of action is pursued.

This package is intended as a guide to the law and should not be used as a substitute for legal advice.



Common Terms Used in Wills and Estates

Estate: All property including real estate and personal property owned by you at the date of your death.

Testator: Means the will-maker if you are male.

Testatrix: Means the will-maker if you are female.

Beneficiary: A beneficiary is a person or organisation that you nominate to receive benefits from your estate.

Executor:

- Is the person you nominate to carry out the instructions of your will.
Examples of their role include:
 - Arrange for your funeral.
 - Contact a solicitor to obtain probate if required.
 - Locate beneficiaries and advise them of the benefit they will receive from your estate.
 - Distribute your estate as required by your will.
- An executor may be a beneficiary of your will. For example a relative or friend.
- Ideal qualities for an executor:
 - Trustworthy, honest, familiar with your beneficiaries and your wishes.
 - Locally based
 - Have the best interests of all your beneficiaries at heart.

Substitute Executor: The same as an executor but only acts if the Executor is unable or unwilling.

Guardian: A guardian is the person that you nominate to care for your minor children (under the age of 18 years). A guardian will only be appointed when both parents die and children are minors. A guardian will have the responsibility for:

- Making decisions about the long term care, welfare and development of your children. E.g. The education the child receives and their religious and cultural upbringing.
- Day to day care and responsibility for your children.

Probate: Probate is a certificate from the relevant Court in your state that confirms the validity of your will and permits your executor to distribute your estate in accordance with your will.

Specific Gift: Gifts that are pieces of property such as Jewellery, a book, shares or a specific amount of money.

Residue of Estate: Assets that are left in your estate after you have made specific gifts. You must make a provision for the residue of your estate if you leave specific gifts.



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WHAT IS A WILL?

A will is a legal document providing directions as to how your assets (“estate”) are to be treated after your death.

Your assets (“estate”) include everything you own:

- Your home,
- Land;
- Car;
- Money in bank accounts;
- Insurance policies;
- Shares;
- Jewellery;
- Pictures;
- Furniture, and so on.

Making a Will is the only way you can ensure your assets will be distributed in the way you want after you die.

A Will must have an “executor” to manage your estate and carry out the directions in the Will.

“Beneficiaries” are the persons or organisations named in the will to receive your assets, after payment of any estate debts.

To be valid, your Will must be up-to-date and be drawn up in accordance with the law.

Who should make a WILL?

EVERYONE over the age of 18 years who has the necessary capacity may make a will. Nearly everybody owns a property and would normally like to pass it to relatives or friends after death. Therefore it is advisable for everybody to make a will.



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When should I make a new WILL?

NOW!

A person must make a new will if they marry, as marriage revokes a will, unless it is stated to be made in contemplation of marriage. A new will should also be made if you divorce or experience any major change in circumstances which would make the provisions of a previous will no longer suitable.

Who should prepare your WILL?

Your Solicitor.

Having your Solicitor draw up your will is in your interest because he or she will:

- Make sure your will is valid, that is properly drawn, signed and witnessed;
- Make sure your wishes are clearly expressed in the will;
- Advise you regarding adequate provision for your spouse and children, or for any former spouse and dependants;
- Advise you as to any possible liability for capital gains tax which might result from provisions you intend to make in your will;
- Advise you on choosing an executor and on the executor's right to be paid for his or her time and trouble in administering your estate;
- Keep the will in a safe place.



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WHAT IS A POWER OF ATTORNEY?

A Power of Attorney is a formal legal agreement giving someone else to act on your behalf. It can be general or specific. If you choose to grant a power, you give the person you choose (your attorney) the power to make financial decisions in your interests and to sign all necessary documents on your behalf. Basically, anything you can do, your attorney will also be able to do, (there are a few limitations).

Do I need a Power of attorney?

A Power of attorney can be useful if you are traveling, incapacitated health. It means that if for some reason you are unable to make decisions on things which concern you, someone else can make them for you.

Who should I choose as my attorney?

Choose someone you trust. Remember that you are giving this person make decisions on your behalf. The person must be at least 18 years of age, of sound mind, not a bankrupt and willing to be appointed.



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When does a power of attorney end?

You can revoke a Power of Attorney at any time by giving notice in writing to your attorney. It is also advisable to destroy the original Power of Attorney.

If you become mentally incapacitated, the Power of Attorney is revoked unless the power of attorney document makes provision for it to continue. This is called an Enduring Power of Attorney.

What is an Enduring Power of Attorney?

An enduring Power of Attorney continues even if you lose your capacity to understand through unsoundness of mind. In order to make an Enduring Power of attorney effective, the document must be in the form prescribed and endorsed with a certificate by a special witness (a barrister, a solicitor or the Local court) certifying that they have explained the effect of the document to you before you signed it.



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*Contact our office to ask for further information as to the
circumstances where a Power of Attorney is appropriate and the
cost of its preparation.*

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