



When should I review or update my Will?

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Your Will and estate plan ages over time but unlike a fine wine, it will rarely improve with time. There will be times during your life when you should review and/or update your Will, particularly when your personal circumstances change.

10 key reasons to consider updating your Will

Some of the key reasons why you may need to review your Will to consider whether it accurately reflects your intentions include:

1. Your Executor is no longer able or willing to act

The person that you appointed as your Executor is no longer able or willing to act in that role (due to ill-health, living overseas, or any other reason), or if you consider it preferable to have another person appointed as your Executor(s).

This may also include your alternate Executor (the person second named in your Will who would act as Executor in the event the primary Executor is unable to do so).

2. Beneficiaries have died

Where any of your beneficiaries have died or if you intend to change any gifts to any beneficiaries under your Will, you should consider making a new Will.

Typically a Will covers what may happen if some of the primary beneficiaries do not survive (for example, the Will may provide that if a beneficiary dies, their gift passes to their children instead), but you may need to consider whether this is still appropriate or

whether these contingencies were considered in the first place.

3. You provided for gifts you no longer own

Does your Will provide for specific gifts of property or assets that you no longer own.

If your current Will gifts a particular asset to a particular person, that person may 'miss out' if you decide to sell that asset. This may also include if you have transferred that asset to a Company or Trust, or if the ownership of the asset has changed in some other way (for example, if the asset is transferred into joint names with someone else).

4. Marriage or divorce

If you have married or divorced, then your current Will may no longer be effective, or it may have varied some way.

[Marriage may affect whether your Will is still valid and divorce can affect whether certain gifts will still continue to be effective.](#) If either marriage or divorce have occurred since your most recent Will was signed, then it would be best to check whether it still operates as you intend.

5. Have you had children since your last Will?

If you have had any children since your last Will was prepared, it's time to review that Will. Reviewing the Will after such a momentous life event will ensure that your child or children are provided for if something happens to you.

6. Have your children turned 18?

If any of your children have attained the age of 18 since the preparation of the current Will, or have otherwise matured, you should update your Will. This is particularly relevant if you wanted to start to include them in the Executor or alternate Executor roles.

7. Your children have had children of their own

Updating your Will if any of your children have had children, may be necessary to make sure that if something happened to your child, their share would automatically pass to their children (your grandchildren).

8. Beneficiaries separate from their spouse or experience significant life events

If any of your beneficiaries:

- are separating from their spouse;
- have commenced their own business;
- have become a director of a company; or

- have been declared bankrupt,

then there may be options to add extra protections to the gift that you are making to reduce the potential that your gift ends up in the wrong hands. You can read more about this in our blog “What happens to a loan from parents if the children divorce?” and also “The difference between a loan and a gift to family members”.

9. Entering into or ending a de facto relationship

Commencing or ending a de facto relationship [does not have the same effect on a Will as marriage or divorce](#).

If you wanted to make a gift to your new de facto spouse, then it would be best to include this in your Will. Similarly, if your Will included a gift that you no longer wanted to make, then it should be amended.

The other reason to consider your Will at this time is to consider whether your de facto spouse may be able to challenge your Will, and steps that you can take to reduce the potential for your estate to be the [subject of a legal challenge](#).

10. Your business structure or superannuation setup has changed

If you have established a new or different business, company, trust, or self-managed superannuation fund, then it may be necessary to make an amendment to your Will to ensure that this asset is dealt with adequately.

A Will does not directly affect all types of assets, but your Will may still impact who receives control of a business or who becomes the decision-maker for particular assets.

Protecting your wishes provides peace of mind

Spending a little bit of time every 3-5 years or when there are significant life events, to make sure that your Will correctly reflects your intentions, will help to ensure that there are no surprises for your family or other loved ones should the unexpected happen.

In a worst-case scenario, your Will which once was suitable for your circumstances may no longer does what you want it to do. In that case, it could lead to one of your loved ones not receiving what you wanted them to receive, or to someone challenging your Will and your estate becoming the subject of contested litigation.

Making amendments to your Will typically comes at a significantly lower cost than your loved ones trying to rectify your Will if it no longer reflects your intentions or circumstances.

After considering your Will you may find that it still reflects your wishes, but at least that way you would have the peace of mind knowing that it still does what you want it to do.

Getting help with your estate planning

At E&A Lawyers, our estate planning team can assist you with reviewing your Will. We will look at your specific requirements and ensure your Will reflects your wishes.

You can also use our 100% safe, secure and cost-effective online platform to start your Will and Power of Attorney in the comfort of your own home. You can start the process now and complete it later. Or you can complete it in one hit. The flexibility is there.

Start your Will and other estate planning documents using our online platform by clicking “Begin your estate planning” in the green banner below.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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