

FAQ

The most basic part of just about any estate plan is a Will. In some situations, it may be all you need.

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What happens if I do not have a will?

If you have not made a will or arranged for some legal method of transferring your property, your assets will be distributed or regulated by the laws of the country in which you were domiciled at the time of your death. After paying out expenses such as Estate Duty which can amount to a large proportions of your assets, the property shall be distributed among the surviving relatives according to the Intestacy Rules for distribution. If there are no surviving relatives, the Government shall be entitled to the whole of the estate.

Is a Lawyer required in making my Will?

No. In making your Will, all you need to know is what are your assets and whom you care for. It is, however, advisable to consult a lawyer if you have questions that need to be addressed or when your Will involves a complicated legal rule. A Will is valid as long as it is in writing. However, certain other requirements must be complied with to ensure that your Will can be proved to be valid in court.

Can I dispose of my property in a handwritten Will?

Section 6 of the Wills Act Cap 352 provides that a will must be “in writing” to be valid. There is no specific requirement as to the language or form of the writing. Hence, as long as a handwritten will complies with all the validity requirements, it can be used to dispose of property.

What are the requirements of a valid Will?

To be valid, a will must comply with various requirements as stated in the Wills Act Cap 352. With few exceptions, the testator must be 21 years of age and of sound mind, the will must be in writing, there must be 2 witnesses present, and the witnesses and the testator must sign the will.

Do I need to file my Will after signing it?

Once a will is drafted, it is generally advisable to keep it in a safe, accessible place and to ensure that your executors and/or trustees are informed about its whereabouts. It can be kept in a safe deposit box or home or at a bank. However, to avoid future problems, it is crucial to enquire into the bank’s policy regarding access to the box in the event of your death.

A better option is to place your will under custody, whereby it will be kept by a secure data bank and be readily accessible both by yourself to review and your executor in the event of your death. It is also prudent to register your Will with the Wills Registry so that it is legally on record.

Can I nominate someone to care for my children, in case if both parents die suddenly?

Individuals known as ‘guardians’ are generally appointed to raise or administer the estates of minor beneficiaries. They are under a duty to prudently administer the minor’s property until such a time when the minor is legally entitled to such property.

Who is a minors?

In Singapore, any person under the age of 21 years is legally considered a minor. Property bequeathed to minors is subject to administration by a guardian or trustee until the child reaches the age specified in the will or until he/she reaches 21 year of age. Once the child reaches the age you specified, the remaining trust property is given to your child. A trustee is a person with whom you should have complete confidence in entrusting your children’s financial

interest. It is advisable to appoint someone to manage the property, so as to avoid the need for a more complicated court-appointed guardianship.

Can I disinherit relatives in my Will?

Although making a Will enables you to distribute your assets as you choose, there are certain individuals or 'dependants' that are protected by the law and cannot be excluded entirely. According to section 3 of the Inheritance (Family Provisions) Act, your spouse and children are entitled to apply to the court for maintenance regardless of being excluded from the will. Members of your family aside from your spouse and children will not be entitled to claim anything that is not bequeathed to them in the Will.

Who should I appoint as my Executor?

The testator may appoint anyone above 21 years of age to be his/her executor in the event of his death. Generally, however, the testator should realize that the executor will be entrusted with extremely important duties and should therefore exercise great caution when choosing who shall administer his/her estate. It is also advisable to seek the consent of the executor to ensure that he will undertake the task.

What if someone challenges my Will after I die?

No will or codicil, or any part thereof can be revoked by a 3rd party upon the Testator's death. A will is rarely challenged in court unless close relative feels cheated out of his or her rightful share of the deceased person's property. In such cases, the challengers will make an application to court attempting to prove that the will suffers a fatal flaw: the signature was forged, the Testator was not of sound mind when he/she made the will, or was unduly influenced by someone