

## YOUR WILL

*Please note the following when providing instructions to our office:*

### Property

Certain property does not pass under your Will depending on how it is held.

- If you hold property 'jointly' (as 'joint tenants') then, at your death, this property passes to the surviving proprietor.
- If you hold property as 'tenants in common' then, at your death, your share of the property passes under your Will.

Depending on whether you own any property as joint tenants or tenants in common, you may need to consider what will happen to that property at your death, or in the case of joint tenants, what will happen if all joint tenants pass away at the same time.

### Family provision claims

Where you wish to exclude people from being beneficiaries of your Will who fall within the definition of an 'eligible person' under the relevant legislation, and for whom you have a moral responsibility to provide, there is a risk that after you die, such person or persons may contest your Will through a family provision claim under Part IV of the Administration and Probate Act 1958. This could result in your Will being altered, and your Estate not being administered in accordance with the wishes expressed in your Will.

### Superannuation Assets

Superannuation assets do not form part of your estate and need to be dealt with outside of your Will.

- Any assets you hold under a superfund need to be dealt with by way of a binding death benefit nomination under your superfund.
- These usually lapse every 3 years.
- If you do not have a binding death benefit nomination then it will be up to the trustee of your superfund to decide where your assets will go.
- The trustee will pay out your benefit to whoever it thinks has the most standing (usually a partner or next of kin)

### Life Insurance Assets

Life insurance proceeds are paid directly to the nominated beneficiary of the policy, and do not form part of the estate. However, the estate can be nominated as the beneficiary, in which case the proceeds are directed into the estate and managed in accordance with the Will.

### Trust Assets

Trust assets do not form part of your estate and need to be dealt with outside of your Will.

- The power to deal with any trust assets usually lies with the trustee.
- Depending upon your trust deed, the power to appoint or remove a trustee lies with the appointor.

### Company assets

Assets held by a company controlled by you do not form part of your estate and need to be dealt with outside of your Will. Your shares in the company may pass under your Will, depending on the constitution of the company and any shareholders' agreements in place.

