

## ESTATE PLANNING

### Do you need to update your Will?

Set out below is a list of common factors which indicate the need for you to review and update your existing Will.

**1. Are you married or divorced or about to marry or divorce?**

- (a) Marriage will cancel your Will, unless it is made in contemplation of the marriage taking place.
- (b) Divorce will also cancel the provisions in your Will that relate to your former spouse.
- (c) Separation does not affect your Will so it is important to review your Will if you separate from a spouse.

**2. Who is your executor?**

- (a) Do you know who your executor is?
- (b) Is their appointment still appropriate? For example:
  - (i) is your executor alive?
  - (ii) has your executor moved elsewhere or otherwise become inappropriate to act due to age or illness?

**3. Who are your beneficiaries?**

- (a) Are all of your intended beneficiaries named in your Will?
- (b) Do you wish to change the level of provision being left to particular beneficiaries?
- (c) Have any of your named beneficiaries passed away? Do you know to who their gift will now pass to?
- (d) If you wish to leave jewellery or other specific items to particular beneficiaries, unless it is in your Will, it will not be legally effective.
- (e) Have you nominated a guardian for your children? If so, have you also taken the additional step of providing the guardian with a guideline of the future care and upbringing for your children?

#### **4. Is your Will tax efficient?**

- (a) Have you considered whether the tax advantages of a testamentary trust would be appropriate for your beneficiaries?
- (b) Do any of your beneficiaries receive a pension or other support payment? If so, are you aware of the impact that inheritance will have on the beneficiary's ability to obtain or retain their pension payments?
- (c) Do you know the tax consequences of your superannuation or life insurance entitlements being paid to your specified beneficiaries?

#### **5. Have your assets changed since you made your Will?**

- (a) Assets in a family trust and self-managed superannuation fund will not necessarily be covered by the terms of your Will.
- (b) Are your assets owned in joint names? If so, are you also aware of the legal effect of this on the terms of your Will?
- (c) Do you have a particular business that requires the appointment of a specialised or suitably experienced executor to manage after your death?
- (d) Do you know who will assume control of your family trust or family company in the event of your death?

#### **6. Have you taken appropriate measures to minimise the likelihood of a claim being made against your estate?**

- (a) Estate litigation can tie up the estate administration for a significant period of time and can also result in payment of substantial legal costs.
- (b) If there is a risk of a claim being made against your estate, you may be able to take proactive steps to either minimise the likelihood of a claim being made or alternatively reduce the impact of any claim which is brought against your estate.

#### **What should you do next?**

If you are concerned that your existing Will is either out of date or not as effective as it can be, we recommend that you contact a member of our experienced Estate Planning and Asset Protection Team in order to review and update your existing will and estate planning arrangements.

Our Estate Planning and Asset Protection Team can be contacted on (07) 5597 3366 or at [law@belllegal.com.au](mailto:law@belllegal.com.au).

*This publication is for information only and is not legal advice. You should obtain advice that is specific to your circumstances and not rely on this publication as legal advice. If there are any issues you would like us to advise you on arising from this publication, please let us know.*