



## Pre Appointment Reading

Thank you for instructing us to prepare your will.

- Please read the important information set out below before our appointment; and
- Complete the "Wills Instructions" at the end of this form to the best of your ability.
- Retain the completed wills instruction form for your appointment with the Solicitor.

**Solicitor assigned: Steven Fidock**

I will bring with me a portable computer and printer and your documents will be produced at our appointment.

### *Witnessing of Documents*

A valid will requires 2 people witness your signature at the same time.

- If you can arrange for a friend or neighbour to attend about 40 minutes after the scheduled appointment time. I can be one witness and your friend or neighbour the other.
- If you are unable to arrange a witness to attend, you can sign your will at a later time by taking it to the pharmacy, to your doctor or to work.

*The witness must not be a beneficiary or a spouse of a beneficiary.*

### *Matters for Consideration*

Prior to our appointment, please give some thought to the following matters:

□ **How do you want your estate divided?**

You should not attempt to deal with each particular asset in your will.

This is because you cannot know now, what assets you will have when you die. Instead, you should picture your estate as a *pool of assets* which may include real estate, cash, investments, insurance proceeds etc. Regardless of how your estate is made up you need to decide how your estate is to be divided into *shares, portions* or *percentages* amongst your family and loved ones.

The way you will divide your estate will generally depend on what relationships you have. Some examples follow:

- You are married with children of the marriage - *All to spouse, then to children, then to grandchildren.*
- You have no spouse and have children – *Divide all equally between my surviving children and then on to grandchildren.*
- You have a spouse but no children (yet) - *All to spouse, then to children (if any) but if no children then ½ to my family and other ½ to spouses family.*
- You have a spouse and each of you have children from prior relationships –
  - *I give a life interest to my spouse in the family home, and upon his or her death, my ½ of the family home goes to my children (it may be necessary to alter the title to the family home to tenants in common).*
  - *I give the proceeds of a life insurance policy to my children and the balance to my spouse (this ensures that your children inherit from you)*
  - *I give my entire estate to my spouse provided that when he or she dies my spouse provides for my children in his or her will (these are called mutual wills and a separate "mutual wills agreement" is required in which each spouse promises not to revoke their will after the death of the first spouse).*
- You have no spouse and no children – *All to parents, then to siblings then to nephews and nieces.*

□ **Who will be your executor ?**

Generally, the primary beneficiary will be your executor. You can also appoint a backup executor if the primary executor is unable to act.

*The role of executor is important - To find out what the executors role is see my web site <http://www.willsperth.net.au/faq>*

You can appoint me as your executor if you wish - but *I won't talk you into it.* In fact, I suggest that you first consider family or friends to avoid incurring unnecessary expense.

If you want me to assist your named executor to administer a deceased estate my charges are generally less than half the rate charged by the *Trustee Companies* and I offer fixed quotes.

If your executor needs professional help getting Probate or dealing with any of the legal issue that arise with deceased estates he or she can turn to me for assistance in administering the estate.

□ **Do you have a Business?**

If you have a business, you can include the business in your will if you *personally* own the assets used in the business. You would personally own the business assets if the business was carried on as a sole trader or in a partnership. If a company or trust carries on the business then you will not own the business assets personally. Instead you may own the shares in the company which you can include in your will.

If you have a trust the *control* of the trust assets needs to change upon your death. This can often be detailed in the will or in the trust deed.

□ **Guardianship**

You can appoint a legal guardian for any child under the age of 18 years.

Where both biological parents die, the final decision as to who will be the guardian of your children rests with the *Guardianship & Administration Board*. In making its decision, the *Board* will take into account the guardian you have mentioned in your will.

You should avoid appointing joint guardians in case they divorce or separate.

□ **Funeral Arrangements & Organ Donation**

You can make an election to be *buried* or *cremated*. You can also direct that your organs and body tissue be made available for transplantation and/or research purposes.

## **ENDURING POWER OF ATTORNEY**

You may also wish to have an *Enduring Power of Attorney* prepared during our appointment. This is a very important document for anyone who owns real estate or has investments in their name, alone or jointly with another person.

If you suffer a trauma such as stroke, heart attack or coma (say from a car accident) and you lose your capacity as a result, your real estate and other assets will become frozen during the period of your incapacity.

***This raises significant legal problems.***

For example, if your partner had a heart attack or stroke and lost his or her mental capacity, you could not sell or mortgage the family home to raise money for medical costs or an accommodation bond – because your partner (who is now incapacitated) cannot sign legal documents like a transfer of land, offer and acceptance contract or a bank mortgage. You would need to obtain an Order from the Guardianship Board before these documents could be signed and accepted by the Department of Land.

By executing an *enduring power of attorney* these problems disappear and your attorney can do anything you can legally do.

### ***Storage of Your Documents***

I will produce 2 copies of your will. Only 1 will is signed and the other unsigned will is your copy.

The Wills Bank” is a free government run storage service and I recommend you store your will there. You must complete the Wills Bank Deposit form (available at the Downloads Section of <http://www.willspertth.net.au/download>).

***Payment***

I will ask for payment at the conclusion of our appointment.

Payment can be made via:

- EFTPOS
- CASH
- CREDIT CARD
- CHEQUE

Please make all cheques payable to **S. Fidock**.

**Summary of Fees**  
 (Inclusive of the GST)

<b>TYPE OF DOCUMENT</b>	<b>SINGLE DOCUMENT</b>	<b>COUPLE (2 x Documents)</b>
<b>Will</b>	<b>\$450.00</b>	<b>\$590.00</b>
<b>Enduring Power of Attorney</b>	<b>\$120.00</b>	<b>\$180.00</b>
<b>Enduring Power of Guardianship</b>	<b>\$120.00</b>	<b>\$180.00</b>

**My fees are very reasonable -**

- I am admitted to practice as a Barrister & Solicitor in the Supreme Court of Western Australia in 1996.
- Documents are prepared and printed immediately on a laptop computer and printer while we confer in the comfort and convenience of your own home.
- You will have the security of a professionally drawn document.
- If you have pre-arranged your witnesses, I will assist with witnessing at no charge.
- Your documents are legally bound and presented in a storage envelope.
- You can alter your will at any time.

Yours faithfully

**Steven Fidock**  
**WILLS PERTH**

**Will Instructions  
For a Couple  
(Please write clearly)**

**Personal Details**

	<u>SPOUSE A</u>	<u>SPOUSE B</u>
<b><u>Full Names</u></b>		
<b><u>Address</u></b>		
<b><u>Occupations</u></b>		
<b><u>Are you Married or Defacto ?</u></b>		
<b><u>Full Names of Biological Children</u></b>		

	<u>SPOUSE A</u>	<u>SPOUSE B</u>
<b><u>Do you operate a Business ?</u></b>	<u>Yes/No</u>	<u>Yes/No</u>
<b><u>Do you have a Family Trust ?</u></b>	<u>Yes/No</u>	<u>Yes/No</u>
<b><u>Are you a Director of a Company</u></b>	<u>Yes/No</u>	<u>Yes/No</u>

**Main Assets -**

	<u>SPOUSE A</u>	<u>SPOUSE B</u>	
			<b>Jointly Owned or in Sole Name ?</b>
<b>Main House</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Investment Property</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Cash at Bank</b>	<input type="checkbox"/>	<input type="checkbox"/>	

<b>Shares</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Life Insurance</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Superannuation</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Have you made a Binding Nomination through your Superannuation Fund ? If so – who have you nominated ?</b>			

### Executors

If your partner is to receive all of most of your estate - most couples will name each other as executors.

Do you wish to name your partner as your executor ?                      Yes / No

When both of you have died, and if your partner is unable to be your executor (due to ill health or lack of capacity) you need to name an alternate or backup executor.

You can name one or more of your adult children as executors (or other beneficiaries if you do not have children) or you can name someone independent who is not a beneficiary.

	<u>SPOUSE A</u>	<u>SPOUSE B</u>
<b>Name/s of your Alternate Executor ?</b>		
<b>Address</b>		
<b>Relationship to You ?</b>		

**Legacies/Gifts**

Do you have any gifts of specific items or sums of money you want to go to any persons or organisations? If yes, complete the section below.

	<u>SPOUSE A</u>	<u>SPOUSE B</u>
<b>Recipient of Gift (describe the gift and who receives the gift)</b>		

**Residue**

After payment of your debts and funeral expenses who is to get the residue (remainder) of your Estate?

	<u>SPOUSE A</u>	<u>SPOUSE B</u>
<b>Does your residue go to your partner ?</b>	Yes/No	Yes/No
<b>If your partner dies before you who gets the residue of your estate ?</b>		

**Guardians for Children (only if you have children under 18 years)**

If both of you have died and you have a child or children under 18 - you can appoint a legal guardian – the role of the guardian is to raise your children and to exercise the parenting rights you have exercised as a parent. Please give details below:-

	<u>SPOUSE A</u>	<u>SPOUSE B</u>
<b>Name of your Guardian?</b>		
<b>Address</b>		

## Funeral Instructions

	<u>SPOUSE A</u>	<u>SPOUSE B</u>
<b>Do you wish to be buried or Cremated</b>		
<b>If your organs are wanted – do you wish to donate them ?</b>		

## Claims against your Estate

To try to ensure that your estate is not open to any claims after your death, please answer the following questions:-

	<u>SPOUSE A</u>	<u>SPOUSE B</u>
Do you have a married or defacto spouse who will <u>not</u> be named as a beneficiary?	Yes/No	Yes/No
Are you responsible for the upkeep or maintenance of any person who will not be named as a beneficiary? Maintaining someone can include providing someone with rent-free accommodation	Yes/No	Yes/No
Do you or your spouse have a child or children who will <u>not</u> be named as a beneficiary but who, in whole or in part, are maintained by you? This includes foster or illegitimate children.	Yes/No	Yes/No
Do you have any child, of whatever age, who is physically or mentally disabled	Yes/No	Yes/No
Do you intend to marry or divorce in the near future ?	Yes/No	Yes/No

## **ENDURING POWER OF ATTORNEY**

Do you want to have an Enduring Power of Attorney Prepared – to cover you in the event of a serious illness, loss of capacity or accident? Yes/No

Your Signature/s \_\_\_\_\_ Date \_\_\_\_\_

Your Signature/s \_\_\_\_\_ Date \_\_\_\_\_