

THE IMPORTANCE OF MAKING A WILL

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A will is one of the best gifts you can leave for your loved ones in the event of your death. By making a will, you ensure that your estate is distributed according to your wishes and you will also spare your loved ones from unnecessary trouble in the Court application to enable the administration of your estate.

WHAT IF I PASS AWAY WITHOUT MAKING A WILL?

If you pass away without making a will, your estate will be distributed according to the rules of intestacy laid down in the Intestate Succession Act (Cap. 146) and persons to whom you may not intend to give anything may be entitled to a portion of your estate.

Furthermore, without a will, you miss the only opportunity you have to appoint a trusted person as executor who could apply to Court for a Grant of Probate to administer your estate. Instead, your family would have to apply to Court for Letters of Administration which is generally a more complicated, longer and more expensive application than the application for a Grant of Probate.

POSSIBLE SCENARIOS IF YOU DO NOT MAKE A WILL

If you pass away without making a will, the following might happen:-

1. If you are a married person with children but you intend to leave some of your estates to your parents, according to the rules of intestacy, your parents would get nothing from you.
2. If you are married with no children, and your spouse passes away the day after without making a will, 50% of your estate will be given to your spouse and forms part of his/her estate to which your spouse's parents may be entitled. Therefore, if your intention is for your estate to be distributed amongst your parents upon your death, that would not happen. Furthermore, because you predecease your spouse, your parents would not be entitled to a share of your spouse's estate
3. If you have young children and your spouse passes away shortly after your death, also without making a will, the person who applies to Court to be appointed as your children's guardian may not be the person you and your spouse would have chosen if you had given some thought to it.
4. If your children inherit a large amount of money upon your death in their twenties, they might not necessarily have the maturity to deal with this situation especially when they have suddenly lost someone so dear to them. By making a will, you can defer the distribution of your estate to them until a later time or in stages and meanwhile, it will be held by your executor on trust for your children.
5. If your relationship with your family members is estranged or if you pass away while making an application for divorce, then you might possibly be giving some people a surprise gift that would be an unwelcome surprise to you as well.
6. Quarrels might occur between family members, causing public embarrassment and unhappiness

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within the family about who should rightfully (as opposed to legally) be entitled to what.

As lawyers, we have seen all of the above happen and the possibilities of your estate being distributed in a manner that you did not intend to are endless. Yet, the solution is simple.

Life is unpredictable. Make a will for the benefit of your loved ones and also for your peace of mind before it is too late.

NB: Some of the points mentioned above do not apply to Muslims. Under Section 115(1) of the Administration of Muslim Law Act (Cap. 3), the beneficiaries must apply to the President of the Syariah Court for an Inheritance Certificate to establish the share of each beneficiary. Muslims can only dispose of or give away 1/3 of their estate to persons who are not already entitled under the said Inheritance Certificate.

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