



# ***PUBLIC TRUSTEE*** ***NOW***

## **➤ WELCOME**

Welcome to our second customer newsletter. When you have planned ahead you can rest assured that you and your loved ones will be looked after in the way you want as circumstances change through your life. Your rights and wishes can be respected if they are properly documented.

This newsletter aims to give you important facts about the documents you should have prepared by a professional organisation like Public Trustee.

We hope you find PT Now interesting and informative.

Debra Contala  
Public Trustee



## **➤ PUBLIC TRUSTEE**

Public Trustee South Australia is an independent South Australian Government enterprise that was established in 1881.

We provide Will-making, Executor, Trustee and Personal Financial Management Services for South Australians. Each year, Public Trustee writes over 1,800 Wills per year, is executor for over 1,000 deceased estates and administers

the finances of around 4,000 people who have lost the capacity to manage their own affairs.

We also receive and examine the financial statements of accounts from Private Administrators appointed by the South Australian Civil and Administrative Tribunal (SACAT) or the Courts.



**Government of  
South Australia**



## > ARE YOU GOOD TO GO?

The strongest benefit of finalising a Will is peace of mind and that feeling of relief, knowing that your affairs are in order and will be taken care of in the way you would want them to be. It is not just a good feeling for you but it's also comforting for the people around you to know that all matters have been carefully considered and properly documented. Even better, once your Will is complete and safely stored, there is a heightened sense of being able to simply get on with things and live your life to the fullest.

Our media campaign is launched this month and will include radio, digital and print advertisements. We hope it encourages many people who have been thinking about making a Will to take action and contact us to make a Will.

We hope you are "Good to Go" and, if not, that you get going and put your Will in the right hands with Public Trustee.

## > HOW WE CAN HELP?

Public Trustee can:

- > Prepare and give advice on making your Will;
- > Act as an Executor by distributing your estate as outlined in your Will;
- > Assist you to act as Executor for a deceased estate;
- > Act as trustee for minors (people under 18) [also trusts for persons over 18 and charitable trusts];
- > Manage the financial and legal affairs for people who are unable to manage their own;
- > Prepare and act as Enduring Powers of Attorney; and
- > Examine accounts for people appointed by SACAT or the Courts who administer the financial affairs on behalf of another person.

To make an appointment or for more information visit <http://www.publictrustee.sa.gov.au> or phone:

New Enquiries: (08) 8226 9200 or Country, toll-free on 1800 673 119.

Existing deceased estate customers, trust customers and personal estate customers, please contact your Estate Officer.





## > FREQUENTLY ASKED QUESTIONS

Q. How old do I have to be to make a Will?

A. You are legally able to make a Will after you have attained 18 years of age.

Q. If I get married, is my Will revoked?

A. Yes, marriage revokes a Will unless the Will has been made in contemplation of a particular marriage.

Q. Will my spouse automatically receive my assets if I leave no Will?

A. No. The assets may also be shared with your children in accordance with legislation.

## > COMMON WILLS PITFALLS

- > Putting off making such a simple but essential document.
- > Creating an informal Will: Prospective beneficiaries may seize upon the interpretation that favours them most - ensuing legal arguments can be costly.
- > Creating inequities in your Will: The surest way to raise disputes as to testamentary capacity or undue influence is to omit from your Will family members who expect to benefit.
- > Failing to take appropriate advice: Ultimately, our Will becomes a very important document - worthy of informed consideration and hardly something to be chanced through a Will kit.
- > Not discussing your Will with your executor and beneficiaries.
- > Omitting to tell your family where your Will is located.
- > Failing to keep a Will updated as circumstances change.
- > Making informal changes to a Will, for example by hand-written alterations to the original or a copy - this is a common source of challenges to Wills.



## > CHALLENGES TO YOUR WILL

At the time of making our Will, we would like to think that our choice of beneficiary is fixed and could not be overturned. By nominating our beneficiaries, we declare whom we wish to benefit from our estate and expect this to be final.

However, in reality, certain members of the family may contest the terms of our Will in Court. Under the *Inheritance (Family Provision) Act 1972 (SA)*, claims for variation of the Will may begin in the Supreme Court up to six months from when probate is granted in a deceased estate.

Persons entitled to apply are the deceased person's partner, spouse, children, a former spouse or step child (if maintained at the time of death) and also a grandchild or parent in certain cases.

Persons who have responsibilities for the maintenance of others should fully consider those responsibilities when making a Will to avoid any costly challenge to the Will after death.

If one person is to be favoured due to disability, hardship or other reason, this is best discussed and disclosed to others during the Will-maker's lifetime, for understanding and acceptance.

Circumstances that could invite a challenge to a Will are best avoided and a well-considered professionally drafted Will is recommended.





### > **HOW CAN I PLAN FOR WHEN I NO LONGER HAVE CAPACITY?**

Every adult in our community with capacity should consider a time when they may no longer be able to make decisions for ourselves. These include financial and legal decisions.

You can plan ahead by preparing an Enduring Power of Attorney (EPA). An EPA is a legal document appointing a person or trustee organisation of your choice to manage your financial and legal affairs. This person or organisation is known as your attorney. If you're no longer able to manage your financial affairs and you haven't prepared an EPA then an application to a tribunal or court may be required to appoint an administrator or manager of your affairs.

Medical and lifestyle decisions are matters which should be documented in an Advance Care Directive. Further information about these documents can be found [www.advancecaredirectives.sa.gov.au](http://www.advancecaredirectives.sa.gov.au)

### > **KNOWING YOUR RIGHTS - A GUIDE TO THE RIGHTS OF OLDER SOUTH AUSTRALIANS**

A new, free guide designed to help protect the rights of older South Australians has been launched.

*Knowing Your Rights - A Guide to the Rights of Older South Australians* contains a range of information designed to assist older South Australians to understand their rights and make informed decisions confidently at critical life points as they age.

The publication, which is available free online includes information about housing, services, consumer and employment rights, financial matters, family and health, legal rights, security and safety and volunteering.

Being informed about rights and certain laws can support you or someone you know to live an active and independent life by staying connected, informed and in control.

To download the guide, visit: Legal Services Commission: [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au).

South Australian safeguarding rights: [www.sahealth.sa.gov.au/safeguardrights](http://www.sahealth.sa.gov.au/safeguardrights).

### > **WE WILL COME TO YOU...**

If you are unable to visit us because you are incapacitated in some way, e.g. in hospital, a nursing home or hospice, we will visit you to make your Will and Enduring Power of Attorney (conditions apply).



**Government of  
South Australia**