



Wills and Trusts

Preparing Your Will – You and Your Lawyer

At Dust Evans, we have a team of lawyers and estate administrators with many years of experience and expertise in Wills and Estate matters. We meet regularly to discuss professional issues and new developments in the law so that you, the client, will receive the best possible advice and service in planning your estate.

Do I need a Will?

Yes - if you care about who your property and possessions will go to after your death.

Having a properly prepared and executed Will is the only way you can be certain your wishes will be carried out following your death.

Even those with modest estates should have one.

Having a Will:

- makes it easier for relatives and loved ones to take care of your estate following your death
- lets **you**, not the Province, decide who will inherit your material possessions
- lets **you**, not others, choose the person to carry out the administration of your estate
- minimizes government interference
- gives you an opportunity to minimize taxes upon death
- lets you set out time frames and conditions with respect to inheritances.

What are the costs and benefits of having a lawyer prepare my Will?

For an estate of average complexity, approximately \$450.00 for an individual Will and approximately \$650.00 for Wills for a couple.

These costs will usually include the preparation of Powers of Attorney, some very basic estate planning, advice concerning Living Wills, and direction regarding how to deal with personal assets, heirlooms, etc.

For a more complicated Will, the legal fees will be based on the time actually spent to take instructions, prepare the Will, and attend upon its execution.

In the long run, these fees are much less expensive than doing nothing or preparing your own Will. Trying to make a Will yourself, even with the aid of computer software packages, is a risky proposition.



Omissions, inaccuracies, ambiguities, or contradictions in a self-made Will could become the subject of time-consuming and expensive litigation, which may frustrate your intentions and destroy family relationships. The proper drafting of a Will requires the professional skills of a lawyer who has the experience and expertise necessary to make sure these things do not happen.

Who gets what?

To help you determine this, your lawyer will require the following information from you:

- A list of everything you own - home, other real estate, stocks and shares, business interests, bank balances, life insurance policies, vehicles, heirlooms, valuables and possessions. Your lawyer will guide you through this list to assist and advise as to how your assets should be disposed of, balancing your wishes against any statutory obligations you may have to a spouse or dependants.
- Full particulars of your marital and family circumstances. This will include the full name and age of each person, as well as your wishes with respect to each individual. Your lawyer will assist you in matching names to assets. Testamentary trusts may have to be set up so that your wishes are properly carried out following your death.

Who should I appoint as my executor and trustee?

The executor and trustee is the person appointed in your Will to carry out its terms and instructions.

This person should be chosen carefully, as he or she may be called upon to exercise considerable discretion when administering your estate. It is important to make sure the executor and trustee is likely to be around when you die, will be willing to take on the duties, and knows something of your affairs during your lifetime.

The executor and trustee can be a spouse, child over the age of majority, relative, friend, acquaintance, lawyer, accountant, trust company, or a combination of these.

Most often, a trusted relative or family friend is the most appropriate choice.

Should you decide to appoint a trust company, be sure to enquire about fees and other charges for its services.



Can I change my Will?

Yes, you should review your Will every year to check that it still reflects your intentions and wishes.

Minor changes usually require only an amendment to the existing Will, which is effected by the preparation and execution of a codicil.

Anything complicated will most likely require a completely new Will.

When does the Will take effect?

Your Will takes effect immediately upon death.

Although the fact of death is a certainty, its timing is most uncertain. Like any important legal document, you should not wait until unforeseen circumstances force you to prepare your Will in haste. It should be prepared and signed while you are in good health and can take the time to make the right decisions.