



WILLS

▶ MAKING A WILL

Yan and Liu live in a rented property with very few valuable goods and without any money in the bank. People told them they should get a Will. They don't want to spend a lot on a Will because they don't have much money or property.

▶ CONTESTING A WILL

Shang's wife Ma died recently. After Ma's death Shang got to know that Ma had made a Will a few months before her death. Shang is worried about the Will because Ma was suffering from dementia. He thinks Ma did not have the ability to write a will on her own.

SOME THINGS TO CONSIDER WHEN YOU NEED TO MAKE OR UPDATE A WILL

A Will is a legal document that sets out how you want to distribute your assets or properties after you die. By making a Will you will get the opportunity to give instructions as to how you want your family or friends to inherit your assets.

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Any person over the age of 18 who has the capacity to understand what they are doing can make a Will. People who have a disability or are unable to manage their own affairs can have a specific Will made for them that needs the approval of the court.

You can make or alter a Will on your own. However, it is better to seek legal advice. A lawyer can ensure your Will is legal and that it clearly expresses your wishes.

If your life situation changes, so should your Will. If you get married, divorced, separated or have (more) children, you should seek legal help and make a new Will.

You can generally contest or challenge a Will if it was;

- incorrectly executed
- made as a result of pressure from others
- made by a person incapable of making a Will
- incorrectly administered; or,
- does not sufficiently provide for a spouse, children or other persons the Will maker is legally obliged to provide for.

If Shang wants to contest Ma's Will he may be able to do so, on the basis that Ma may have been incapable of making a Will. However, before deciding to do so, Shang should seek legal advice in regards to the process and costs of contesting a Will as it can be costly and complex.

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QUESTIONS TO ASK

- ▶ Do I have a valid will?
- ▶ Does my executor know where my Will is?
- ▶ Have my circumstances changed? E.g. divorced , married
- ▶ When did I last update my will?
- ▶ Have I included everyone I am obliged to include in my Will?
- ▶ Have I include all of my property in my Will?
- ▶ Is my Will in a safe place?
 - You should keep one copy of your Will at home in a safe place and leave another copy with your lawyer or at another secure place such as a bank.

WHAT TO DO IF THINGS GO WRONG

If you want to find a private lawyer in your area who can help you make, change or contest a will, call the Law Institute of Victoria's legal referral line.

People who have a disability or are unable to manage their own affairs can make Wills, however it is best to seek advice from the Office of the Public Advocate.

USEFUL CONTACTS:

EASTERN COMMUNITY LEGAL CENTRE

Suite 3, Town Hall Hub
27 Bank Street
Box Hill VIC 3128
Ph: 9285 4822
www.eclc.org.au

VICTORIA LEGAL AID

23 Ringwood Street
Ringwood VIC 3134
Ph: (03) 9259 5444
www.legalaid.vic.gov.au

OFFICE OF THE PUBLIC ADVOCATE

Ph: 1300 309 337
www.publicadvocate.vic.gov.au

LAW INSTITUTE OF VICTORIA

Ph: (03) 9607 9311
www.liv.asn.au