

POWERS OF ATTORNEY

In case you are seriously hurt in an accident or you become seriously ill, you need a power of attorney, otherwise you and your family may incur significant expense or lose control of your property, finances and even the ability to make decisions regarding your personal care if you become physically or mentally incapacitated.

There are basically two powers of attorney, one for personal care, (medical decisions) and one for property (i.e. land, bank accounts, pay bills, and investments).

With a power of attorney you can appoint one or more of the people you trust to look after you and your property instead of the Public Guardian and Trustee. This appointment can be made quickly and easily.

If you have not signed Powers of Attorney, imagine the surprise when your spouse, child, or someone close to you comes to visit you and is told the Public Guardian and Trustee is now deciding the level of comfort and care to be provided to you.

Without signing a power of attorney, if you should lose the capacity to make decisions regarding the level of care which you will receive or what is to be done with the family home or other assets, the Public Guardian and Trustee will be making decisions for you.

Getting this power back in the hands of the people you trust can be costly and inconvenient if you have failed to sign powers of attorney for your property and personal care.

If you sign a power of attorney you may choose any individual over 18 years of age to manage your property and any individual over 16 years of age to manage your personal care should you become unable to act for yourself.

If you have not completed powers of attorney, the process to regain control is involved and will result in expenses and delays. If you have signed a power of attorney both you and your family will be better off as these costs and delays can be avoided.

Signed powers of attorney for property and personal care are important, and perhaps more important to you than having a will.

A small investment of your time now will ensure peace of mind for you and your family knowing that your affairs are in order.

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WILLS

A will is a document prepared by you during your lifetime to take effect upon your death. It directs how the various assets and possessions you own will be disposed of when you die.

Everyone should ensure that they have a valid legal will for at least two reasons: to state where your assets go and who would be the guardian of your children. If you do not have a will, matters are likely to be much more difficult and costly for your family. In addition, your assets may not be distributed in accordance with your wishes!

While a lawyer is not necessary to prepare a will, obtaining proper legal advice is strongly advised. Certain particular situations make it more imperative that a lawyer become involved, such as:

Second Marriages – require legal advice because a prior will may be revoked;

Minor Children – parents/grandparents should make sure that children's assets are protected for them until they reach a certain age;

Parties who are under a disability – ask your lawyer about a Henson Trust;

Beneficiaries who are separated (both before and after a bequest) - It is important to have the Family Law Act exclusion in a will. A separated spouse may inadvertently obtain the entire estate and be entitled to act as an executor if a new will is not prepared;

Large estates (including estates that have out of country properties or cottage properties) – should be given special attention because income tax consequences may come into play;

Children – you may wish to appoint a guardian but you may also wish to specify who has access to your children during the guardianship period.

For a nominal cost, all of these and many more questions can be answered by your solicitor in preparing your will. In the normal course of events, your solicitor will ask you to also prepare a Power of Attorney for Property and one for Health Care which should form part of your estate plan.

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