

Public  Trustee
Every moment counts



Planning Ahead

A Guide to Wills, Estate Planning
and Executor Duties

Introduction

The Public Trustee is here to support the Tasmanian community. We are an independent and impartial organisation established to provide a range of estate planning, estate, and trust administration services.

In certain circumstances, the Tasmanian Civil and Administration Tribunal can appoint us as an Administrator. When appointed, we can support people with illnesses or disabilities manage their finances if their decision-making ability is impaired.

This guide aims to help the Tasmanian community understand the importance of planning ahead. The guide answers the most frequently asked questions and concerns regarding:

- Estate planning
- Wills
- Enduring powers of attorney
- Enduring guardianship
- Deceased estate administration

NOTE: This guide is not intended to be a step-by-step manual to finalising a deceased estate, managing a trust, or preparing an estate plan. The booklet contains general information only. Fees listed may change, visit our website for the latest updates.



For more about the Public Trustee's role, please visit our website or call your nearest Public Trustee branch on 1800 067 784.

WHAT IS ESTATE PLANNING?

Estate planning is an important aspect of providing protection and support for yourself and your family in the event that something happens to you. This includes setting up legal documents to provide clear instructions to manage your legal, health, and financial affairs if you lose your decision-making ability from an accident or illness, or when you pass away.

Our experienced team of legal professionals will discuss the many situations you might encounter in order to ensure you have an estate plan that works for your individual family and financial circumstances.

Good estate planning should involve preparing a Will, enduring power of attorney, an enduring guardian, and an advance care directive. In addition, consideration should also be given to:

- establishing trusts where appropriate;
- naming guardians for your children;
- the nature of property ownership;
- ensuring sufficient provisions are made for family and other dependants;
- life and income insurance requirements;
- superannuation; and
- strategies to minimise risk of fraud and financial abuse.

WHEN SHOULD I PREPARE AN ESTATE PLAN?

Now! If you are over the age of 18 years, then you should have an estate plan to protect yourself, your loved ones, and your assets. The best time to prepare an estate plan is when you are healthy, aware, and in control.

If you don't have any formal arrangements in place, then government legislation or other agencies may dictate what will happen to your assets and who will look after your personal and financial affairs.

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Wills



Your Will is your
voice after
you're gone.

What is a Will?

A Will is a document that states how you would like your assets to be distributed when you die and the person or organisation you would like to be responsible for carrying out your wishes.

An up-to-date and professionally written Will is one of the most important documents you will ever have. Due to the complex nature of Wills, it is advisable that you have it prepared by experts like the Public Trustee.

When you prepare a Will with the Public Trustee you have a choice about who you can appoint as your Executor.

You can choose:

- to appoint any adult with legal capacity to be your executor/s. The Public Trustee will be a substitute if none of your appointed executors can or want to take on the role;
- the Public Trustee as your sole executor.

WHY DO I NEED A WILL?

Your Will is your voice after you're gone. The clearer your instructions, the better it is for the people you care about. Unfortunately, around 50 per cent of Tasmanians don't have a valid Will, which can make things difficult for their loved ones when they're gone.

Having a professionally written, up-to-date Will is important for a number of reasons.

For example to:

- ensure the right people are provided for when you die;
- enable your assets to be distributed according to your wishes;
- minimise disagreements among those who expect to benefit from your estate;
- help those who are responsible for managing your estate understand how you would like your affairs managed; and
- enable your estate to be settled efficiently.



WHAT SHOULD I CONSIDER WHEN MAKING A WILL?

Depending on the nature and ownership of assets, different procedures for transferring assets may be required. Therefore, it is recommended that you seek professional advice to ensure there are limited delays for your loved ones.

What you include in your Will depends upon your individual circumstances. However, there are some fundamentals that you need to take into account, such as:

- who you want to administer your estate (the name of your executor);
- instructions on how you want your assets distributed;
- details of what should happen if someone you name dies before you;
- your wishes regarding your funeral arrangements, for example, cremation or burial; and
- the name of a guardian to care for young children.

Please remember to check your life insurance policies and retirement savings plans, to ensure you have named the people you wish to receive any entitlements once you pass away.

WHEN SHOULD I UPDATE MY WILL?

Once you've made a Will, we recommend that you review it every three to five years, or when any of your life circumstances change. These changes could include things like:

- you bought or sold an asset (e.g. a house/ business);
- you married, divorced, or entered into a significant relationship;
- you have a new child, grandchild, or stepchild;
- one of your children has divorced, separated, or entered into a significant relationship;
- your children now have stepchildren;
- you have retired;
- your spouse or partner died;
- one of your beneficiaries died or became incapacitated;
- you want to change the beneficiaries of your Will; and
- you want to nominate the guardian of your minor children.

WHAT IF I DIE WITHOUT A WILL?

If you die without making a Will, this is called dying "intestate". State law will then determine how your estate is distributed. Unfortunately, this may mean that your estate isn't distributed according to your wishes.

In Tasmania, distribution is made according to the formula laid down in the *Intestacy Act 2010*. In order for the estate to be administered somebody needs to apply to the Court for authority, similar to probate. This authority is called 'letters of administration' and the person authorised is the administrator.

Please visit our website for more information.

WHO SHOULD I NAME AS EXECUTOR?

An executor is responsible for ensuring someone's final wishes are carried out in accordance with their Will. It is important that you nominate someone who is organised, has great communication skills, and knowledge of the legal and financial requirements involved in administering deceased estates.

Being an executor of a Will can be a complex and time-consuming task. Many people appoint a friend or relative as a way of acknowledging their respect or admiration for that person. However, being left with the burden of administering a loved one's estate can be a distressing task during a time of grief.

The Public Trustee is an expert in estate administration. You will have the support of specialist accountants, client account managers, and legal professionals, who can provide a full range of executor services. Read more about the role of an Executor on page 16.

CAN I PREPARE MY OWN WILL OR USE A DO-IT-YOURSELF WILL KIT?

Preparing your own Will by using a generic do-it-yourself 'Will kit' is not recommended. A Will must follow a strict legal format to be deemed a valid Will. If your Will is thought to be 'not valid' then your assets will be distributed according to a predetermined formula and not necessarily how you had intended or wished.

If you are not legally qualified to prepare a Will, then you risk making mistakes, creating uncertainty, or losing opportunities for good estate planning.

In addition, unnecessary costs and delays in administration may result from problems associated with homemade Wills. It is easier and cheaper to ensure that your Will is correct whilst you are alive than have your executor try and fix it after you die!

SHOULD I SET UP A TRUST?

Trusts are created for a variety of reasons. They can provide ongoing support for minors or individuals with disabilities, or individuals who may be spendthrifts or have a form of addiction where expenditure needs to be monitored. A trust could be set up for those who are going through a bankruptcy, or for someone who anticipates a separation or divorce.

In a trust, you can stipulate how beneficiaries can benefit. For instance, you might want to set money aside so that it can be applied to your grandchildren's education.

A trustee will manage the funds of the trust and monitor expenditure expenditures to ensure the trust can continue for as long as possible for the beneficiary.



An executor
is responsible
for ensuring
someone's final
wishes are
carried out.

The administration of trusts is an extremely demanding and complex task, which requires ongoing involvement and understanding of legal, taxation, investment, and accounting matters. Being a trustee usually requires administration over a long period of time. Therefore, it is wise to opt for a reliable and longstanding organisation such as the Public Trustee. Our experienced team of professional solicitors, accountants, and taxation experts are equipped to administer your trust.

WHY PREPARE YOUR WILL WITH THE PUBLIC TRUSTEE?

The Public Trustee has experience you can trust. Our lawyers understand estate matters and deal with thousands of estate matters every year. We ask the right questions, so you can make the best possible plan for your estate.

If you appoint the Public Trustee as your executor, you will have peace of mind knowing we will administer your estate fairly, impartially, and in the best interests of all concerned.

- We keep your **beneficiaries informed** of the progress of your estate administration by explaining, understanding and consulting them before any major decisions are made.
- We carry out **your instructions** and your client account manager will ensure regular and effective communication with your beneficiaries.
- The **time to complete** the administration of your estate will depend on the size of your estate and the terms of your Will.
- The Public Trustee works with banks, insurance companies, real estate agents and all organisations connected with **your assets**.
- We **arrange payment** of any outstanding bills and collect any money that is owed to your estate. If you own a business, we will arrange for it to carry on or be sold (according to your instructions and in accordance with the law).



If you'd like to make or update your Will with the Public Trustee, please contact your local Public Trustee branch, or go to our website at www.publictrustee.tas.gov.au and fill in the appointment form.



Enduring Power of Attorney



Exercise your right to choose an attorney whilst you have the ability to do so.

What is an enduring power of attorney?

An enduring power of attorney is a legal document which allows appointed individual(s) or organisations to take care of your financial affairs.

This document is important if you lose your decision-making ability due to an accident or illness, or no longer wanted the responsibility.

By preparing an enduring power of attorney it ensures you, your loved ones, and your property are protected. It is important that you exercise your right to choose an attorney, while you still have the ability to do so.

We prepare enduring powers of attorney for:

- Those who want to appoint the Public Trustee as their attorney
- Those who want to appoint another person as their attorney and the Public Trustee as a substitute attorney.

WHY DO I NEED AN ENDURING POWER OF ATTORNEY?

Situations can arise when you need someone to manage your financial affairs. For example, declining health, accidents or illness, and the onset of age-related disabilities, may impair your ability to make decisions about your financial affairs.

If you lose your decision-making ability to make informed financial decisions, you may need support to operate a bank account, pay bills, sell property, complete your tax return, manage your investments, or deal with your financial affairs.



WHO SHOULD I CHOOSE AS MY ATTORNEY?

You can appoint any adult with legal capacity who agrees to the appointment. If the need arises, your attorney will be in control of your financial affairs. It is vital that you have confidence in your attorney to make wise decisions on your behalf and have your best interests at heart.

Acting as an attorney is a demanding job filled with wide ranging responsibilities. It requires a good working knowledge of legal, business, financial and investment matters. It may be unreasonable to ask a friend or relative to take on this role. That is why many people choose to appoint the Public Trustee as their attorney.

WHEN DOES AN ENDURING POWER OF ATTORNEY BEGIN TO OPERATE?

An enduring power of attorney begins to operate after being registered at the Land Titles Office. Your signed enduring power of attorney remains inactive until you instruct to have it registered.

If you lose your decision-making ability to manage your financial affairs either permanently or temporarily due to illness or injury, your attorney can register your enduring power of attorney for you. They will then begin acting to protect your financial interests. Another reason might also be that you simply no longer want the responsibility of managing your financial affairs.

Until your enduring power of attorney is activated, you will maintain full and independent financial control. However, you can have peace of mind knowing that in your time of need there will be access to essential assistance.

WHAT TO DO IF THERE IS NO ENDURING POWER OF ATTORNEY?

If you lose your decision-making ability and you have not prepared an enduring power of attorney, the Tasmanian Civil and Administrative Tribunal could appoint someone with the legal authority to support you to make decisions.

To do so, the Tasmanian Civil and Administrative Tribunal would hold a hearing (involving family members and interested persons) to decide who they should appoint as administrator for your financial affairs.

The difference with an enduring power of attorney is – you get to choose who your administrator will be. You can also ensure that your loved ones do not have to worry about sorting out these affairs when you are in a vulnerable position and need care.

For more information about making an application to the Tasmanian Civil and Administrative Tribunal, please go to: www.tascat.tas.gov.au/guardianship or call on 1800 657 500.



WHY SHOULD I CHOOSE THE PUBLIC TRUSTEE TO BE MY ATTORNEY?

We also offer you a number of distinct advantages:

- **Reliability** – unlike an individual, our ability to act as your attorney is continuous and not affected by changes in personal circumstances. We have been in Tasmania, for all Tasmanians, since 1853 and we will be here for you when you need us.
- **Understanding** – we are familiar with the natural confusion that follows a sudden accident or illness. You can be assured that we will handle the situation with compassion and understanding.
- **Experience** – we are Tasmania's most experienced trustee organisation and we pride ourselves on offering up-to-date advice and service.
- **Expertise** – we have experienced, qualified, and professional staff including solicitors and accountants. This expertise ensures we make independent and impartial decisions on your behalf.



AS MY ATTORNEY, WHAT WILL THE PUBLIC TRUSTEE DO?

When you appoint us as your attorney, we will support you to manage your financial affairs. We value your preferences and wishes and will consult with you whenever possible to ensure that your needs are met.

We will provide a client account manager to personally deliver services tailored to your needs. These include management of: real estate, bank accounts, investment portfolios, accounts, tax issues, as well as your dealings with government, community and private agencies.

WHAT HAPPENS IF I LOSE MY DECISION-MAKING ABILITY AND THE PUBLIC TRUSTEE IS MY ATTORNEY?

If you have appointed us as your attorney, we rely on notification from someone who knows you (e.g. relatives or friends) to say you no longer can manage your financial affairs. We will also request written evidence from your treating doctor to confirm this. The enduring power of attorney document will then be registered with the Land Titles Office, and we will begin to act.

WHAT HAPPENS IF I LOSE MY DECISION-MAKING ABILITY AND I HAVE APPOINTED A LOVED ONE AS MY ATTORNEY?

If you have appointed a loved one such as a family member or friend as your attorney. Your attorney will need to arrange written confirmation from your treating doctor to explain that you no longer have the mental capacity to manage your financial affairs. They are to bring this with them, along with their photo identification (e.g. driver's licence), to collect your enduring power of attorney document.

An appointment is needed, so please contact your nearest Public Trustee branch or go to our website at www.publictrustee.tas.gov.au and fill in the appointment form.



WHAT HAPPENS IF I STILL HAVE DECISION-MAKING ABILITY BUT NO LONGER WISH TO MANAGE SOME OR ALL OF MY FINANCIAL AFFAIRS?

If you have appointed the Public Trustee as your attorney, simply contact us and advise you no longer wish to handle your financial affairs. We will then arrange for your enduring power of attorney document to be registered with the Land Titles Office and begin to act.

If you have appointed a family member or friend as your attorney, you will need to collect your enduring power of attorney document from our office. If you are unable to personally collect the power of attorney document, please contact our office.



We provide a client account manager to personally deliver services tailored to your needs.

Enduring Guardianship



Appointing a guardian may give you a sense of security.

What is an Enduring Guardianship?

Many people focus on planning ahead for their financial and business affairs by making a Will and a power of attorney but often do not consider what will happen if they lose decision-making ability to make personal and medical decisions due to illness or accident.

An enduring guardianship is a legal document that enables you to appoint another person (enduring guardian) to make personal and medical decisions for you, if you lost your decision-making ability.

WHY DO I NEED AN ENDURING GUARDIAN?

If you have specific wishes in regards to your medical treatment, future personal decisions, and/or the person you would like to make those decisions, you should consider preparing an enduring guardianship document while you have the ability to do so.

WHAT HAPPENS IF A GUARDIAN HAS NOT BEEN APPOINTED?

If you lose your decision-making ability but you have not appointed an enduring guardian, decisions about medical treatment may be made on your behalf by a 'person responsible' who your doctor believes has sufficient personal connection with you to consent or refuse treatment on your behalf.

Alternatively, the Tasmanian Civil and Administrative Tribunal may appoint a guardian for you to make decisions such as where you live, what health care you have, and who visits you. Generally, a guardian is only appointed by the Tasmanian Civil and Administrative Tribunal in circumstances of conflict or where some legal authority is required to promote your best interests.



For more information about making an application to the Tasmanian Civil and Administrative Tribunal please go to www.tascat.tas.gov.au/guardianship or call 1800 657 500.



WHO SHOULD I CHOOSE AS MY GUARDIAN?

Your guardian must be over 18 years of age. They cannot be a person who is involved in an administrative or professional capacity in your medical care or treatment (e.g. your GP). You also cannot appoint the Public Guardian or Public Trustee as your enduring guardian.

You can appoint single or joint guardians. You can also appoint an alternative guardian to make decisions on your behalf in circumstances where the original guardian is absent or incapacitated.

Your guardian should be someone you trust and who knows your wishes and preferences. They should preferably be a person who is decisive and able to advocate on your behalf to medical staff, care providers, and members of your family.

WHAT DECISIONS WOULD MY ENDURING GUARDIAN MAKE?

Your enduring guardian can make decisions about your health care and accommodation. This includes medical treatment, whether you live in your own home or a nursing facility, who can visit you or what personal services you receive, for example home support or meals on wheels.

Your enduring guardianship document must be registered to have legal effect. Enduring guardianship only comes into effect if you lose your decision-making ability. Therefore, it may never become operational.

Your guardian is responsible for:

- acting in accordance with any conditions or wishes expressed by you in the instrument of appointment;
- acting in your best interests and promoting your dignity;
- ensuring that you retain as much freedom of action and decision-making as is possible; and
- considering your wishes before making decisions for you.

For more information on the conditions, you would like to include in your enduring guardianship document please refer to our website or the Tasmanian Civil and Administrative Tribunal's 'Enduring Guardianship Info Sheet'.

WHAT IS AN ADVANCE CARE DIRECTIVE?

An Advance Care Directive (ACD) is a written document that contains your wishes and directions, so health practitioners understand what is important to you, and what medical treatments you do not want. A health practitioner is a doctor or any other person authorised to provide you with treatment or care. This document does not appoint someone to make decisions for you.

An ACD only comes into effect if you lose the ability (either permanently or temporarily) to make these decisions yourself. In Tasmania, an ACD is legally binding.

The Public Trustee cannot prepare an ACD document for you.



For more information on advance care planning for healthy dying, please refer to the Department of Health website. <https://www.health.tas.gov.au/health-topics/palliative-care/about-palliative-care/planning-and-decisions-about-end-life>

WHAT IS THE DIFFERENCE BETWEEN AN ADVANCE CARE DIRECTIVE AND ENDURING GUARDIANSHIP?

An enduring guardianship document allows you to appoint a person to make important personal decisions on your behalf if you lose the ability to make decisions. You can also capture important information about your medical and personal wishes and things you want to be taken into consideration if or when certain decisions need to be made.

An Advance Care Directive (ACD) helps healthcare professionals know how to treat you and your wishes and preferences for your care. This document does not appoint someone to make decisions for you.

You should seek professional advice to determine which documents are right for your circumstances.



Your enduring guardianship document must be registered to have legal effect.



HOW CAN I PREPARE AN ENDURING GUARDIANSHIP DOCUMENT?

You can prepare an enduring guardianship document with the Public Trustee.

If you would like to prepare your own enduring guardianship document, you can download a copy from: www.tascat.tas.gov.au/guardianship/forms2



Alternatively, the Office of Public Guardian can provide information concerning enduring guardianship and give advice on the powers of an enduring guardian – Monday to Friday between 9am and 5pm. Phone: (03) 6165 3444.

HOW DO I REGISTER AN ENDURING GUARDIANSHIP?

You can register an enduring guardianship for a fee at Service Tasmania.

There are strict requirements for the witnessing of an enduring guardianship. The witnesses must be over 18 years of age and must not be related to you or to your guardians. Instruments of appointment that are not appropriately witnessed may be rejected for registration or invalidated after a review by the Tasmanian Civil and Administrative Tribunal.

Your guardian must have signed the instrument to indicate that he or she accepts the appointment as your guardian.

Upon registration, the Tasmanian Civil and Administrative Tribunal will return copies of the instrument to you. You should provide a copy to your guardian(s), your care providers and to your medical practitioner.



Executor Duties



As an executor, you may be liable if any issues arise.

What does it mean to be appointed as an executor?

An executor is responsible for the administration of an estate and for carrying out the wishes set in the Will. Being an executor can be a complicated job and requires legal and financial understanding to do it successfully.

As finalising an individual's financial affairs can be a daunting and emotionally challenging time, many people prefer to appoint professionals such as the Public Trustee to avoid leaving the difficult task to their loved ones.

DO I HAVE TO TAKE ON MY ROLE AS EXECUTOR?

No, you are under no legal obligation to accept the appointment. Many people appoint a friend or relative as their executor as a way of acknowledging their respect or admiration for that person. However, the reality is that often people can be left with the burden of a loved one's estate during a time of grief and distress.

Being the executor of an estate requires knowledge of areas such as law, accounting, business management, and finance. This can be an extremely difficult task for someone without the required knowledge.

As an executor, you may be liable if any issues arise during your management of an estate. Taking on the responsibility may not be the right thing for you and it is unlikely that the person who nominated you would have wanted to put you under stress.

Before making this decision, it is important you consider the following:

- Do you have time to manage all the paperwork required in a timely way?
- Will you be able to find all the beneficiaries of the estate easily?
- Are you confident you have the relevant business, legal, and financial experience to create the best outcome for the beneficiaries?
- Will the beneficiaries view your actions as impartial, or will you be open to criticism and accusations of bias?

If you don't wish to act as executor you can 'renounce' and transfer the role to an independent professional executor, such as the Public Trustee. Once a person has obtained a grant of probate, it is generally not possible for that person to renounce the appointment.





WHAT IS A GRANT OF PROBATE?

Probate is official recognition that a Will is legally valid and gives permission to proceed with administering the estate. An application is made to the Probate Registry of the Supreme Court for a grant of probate. The grant is a document certifying that the Supreme Court recognises the authority of the executor or executors to deal with the estate. This will enable an executor to then begin to administer the Will.

For those people who die without a Will, the grant is called 'letters of administration'.

HOW CAN I OBTAIN PROBATE?

To obtain a grant of probate the executor must file various legal documents at the Supreme Court. Documents required include: the original Will, the death certificate, and a complete statement of all assets and liabilities of the estate.



For more information on a grant of probate visit: www.supremecourt.tas.gov.au/probate_and_administration

HOW LONG IS THE ADMINISTRATION OF AN ESTATE LIKELY TO TAKE?

Generally, the estate administration process can take between 6-12 months. However, this can sometimes take more time depending on the complexity of the estate. The administration process can be quite complex and could involve our team of solicitors and accountants.

We are consultative and will keep beneficiaries informed during the estate administration progress. Our team will explain situations and consult with them before any major decisions are made. However, your wishes will always be our paramount concern.

In our experience, we have found that the process works best with open communication between families. This is to ensure that a common knowledge and understanding is achieved when distributing your assets.

Locate the Will

Make funeral arrangements

Conduct preliminary conference with family, legal and business associates

Advise beneficiaries and ascertain immediate needs of family

Protect assets

Protect business interests

Collect valuables and income

Insure all property

Keep surplus funds invested

Determine assets and debts (prepare statement of assets and liabilities)

Personal effects

Cash and securities

Real estate

Property interstate assets

Taxation details

Business interests

Debts due

Debts owing

Obtain a grant and attend to legal formalities with solicitors

Realise assets to pay liabilities including income tax to date of death

Prepare accounting and tax information for estate and beneficiaries post distribution

Distribution of estate

Establishment of trusts

Pay legacies and hand over specific bequests

Transfer cash or assets to beneficiaries

Continuing administration and asset management

Obtain receipts

Prepare final statements

WHO CAN CHALLENGE MY WILL?

The validity of your Will can be challenged on several grounds. These can include:

- failure to meet the formal requirements of a Will – such as not being signed by the testator and two witnesses;
- the Will maker (testator) was not of sound mind; and
- the testator was unduly influenced or pressured by another person/s when making the Will – this is called duress.

In Tasmania, if a person dies and their dependants feel that they are left 'without adequate provision for proper maintenance and support' they could make an application for further advancement under the *Testator's Family Maintenance Act 1912*. However, only the following people can make a claim:

- the surviving spouse or partner of the deceased;
- a person whose significant relationship, within the meaning of the *Relationships Act 2003*, with the deceased person had ceased before the date of the death of the deceased person and who was receiving or entitled to receive maintenance from the deceased person whether under an order of a court or an agreement or otherwise
- the children of the deceased, including adopted and stepchildren;
- the parents of the deceased if the deceased had no spouse or children; and
- a divorced spouse or ex-partner who is receiving or is entitled to receive maintenance from the deceased at the date of death.

WHAT IS A TRUSTEE AND WHAT ARE THEIR RESPONSIBILITIES?

An executor's duties do not necessarily cease when the final distributions have been made. For example, where assets are held for children, where income from an estate is payable to its beneficiaries during their lifetime, or there's a life interest in an estate or a long term trust is set up by the Will, the executor may have to continue in the role of trustee until the trust ends or the funds are used up.

The trustee is often required to manage assets over a long period of time. If you are holding funds as a trustee you can retire and appoint a new trustee. The Public Trustee can take over this role for you and offers both perpetuity and prudential financial management for ongoing trusts.

WHY CHOOSE THE PUBLIC TRUSTEE?

Administering an estate is a very complex and time consuming task. We recommend appointing a professional executor such as the Public Trustee to minimise the workload and burden on your family and friends at an already difficult time.

If you appoint the Public Trustee as executor, it becomes our responsibility to administer your estate and your loved ones won't have the burden. We are a 'one stop shop' for estate administration and provide the full range of executor services. Our estate managers, accountants, and solicitors are equipped to deal with any issue that may arise. We will do everything we can to ensure that the administration of your estate is finalised without unnecessary delay.



Fees & Charges

HOW MUCH DOES IT COST TO PREPARE AN ESTATE PLAN WITH THE PUBLIC TRUSTEE?

ESTATE PLANNING PREPARATION FEES (INC GST)

	Single Person	Couple
Will preparation (Appointment Includes preparing an enduring power of attorney)	\$140	\$210
Enduring power of attorney preparation (financial matters)	\$140	\$210
Enduring guardianship preparation (medical and lifestyle matters)	\$140	\$210

If the estate planning documents are complex to prepare an hourly fee of \$295 (pro rata) may apply.

A standard Will and enduring power of attorney are prepared free for Seniors and Australian Government Pensioner concession card holders when the Public Trustee is appointed as executor/attorney (card must be presented and only applies to one appointment in a 12-month period).

Fees listed are subject to change. Please refer to our website for the latest fees and charges.

- If you nominate Public Trustee as your executor fees will apply when we are required to administer your estate when you pass away.
- If you nominate Public Trustee as your attorney fees will apply if we are required to manage your affairs if you lose decision-making ability. Or you choose for us to manage your financial affairs.
- Existing clients of the Public Trustee receive a 10% discount to prepare/revise new estate planning documents.
- Fees for couples are based on the assumption instructions are similar.
- Will (with an enduring power of attorney), enduring power of attorney and enduring guardianship preparation fees are based on the following standard appointment times
 - Single person – 1 hour to take instructions + 30 minutes to draft the documents + 15 minutes for the documents to be signed.
 - Couples – 1.5 hours to take instructions + 30 minutes to draft the documents + 15 minutes for the documents to be signed.
- If you need more time than a standard appointment to provide your instructions and/or for us to provide advice to complete your documents, we will discuss your options with you before additional time is charged. If required additional time has an hourly charge of \$295 billable on a pro-rata basis of \$29.50 for each 6-minute unit actually undertaken to complete your documentation.
- There is an additional Government registration fee to register an enduring guardianship and or an enduring power or attorney. If the Public Trustee is asked to register an enduring power or attorney documents an administration fee is also charged. Enduring guardianship documents must be registered by the individual.

HOW MUCH DOES IT COST TO ADMINISTER AN ESTATE?

If you own assets (say, your house, or land) as a joint tenant	0%
If you have solely-owned assets which are classed as 'matrimonial assets' and which are transferred to your surviving spouse or defacto partner - for example the family home, motor vehicle, household effects and furniture	2.2%
If assets held in your sole name are realised or transferred to a beneficiary the following fees apply:	
On the first \$200,000 or part	4.5%
On the next \$200,000 or part	3.5%
On the next \$200,000 or part	2.5%
On amounts above \$600,000	1.5%

NOTE: Other charges may also apply and all fees are subject to change. If you'd like more information on our fees and charges, please refer to the fees and charges section on our website.

If you know the value of your assets, our staff would be happy to provide you with an estimate for the administration of your estate. Appointments are necessary, so please contact your local Public Trustee branch or go to our website at www.publictrustee.tas.gov.au and fill in the appointment form.

HOW MUCH DOES IT COST FOR THE PUBLIC TRUSTEE TO ACT AS AN ATTORNEY?

If your enduring power of attorney is activated and the Public Trustee is acting as your attorney, an hourly management fee will be charged according to the type and amount of work you require. A time sheet is kept, and fees will be charged quarterly.

If you'd like us to act as your attorney, please contact your local Public Trustee branch or go to our website at www.publictrustee.tas.gov.au and fill in the appointment form.



CONSOLIDATE YOUR PAPERWORK IN ONE PLACE

Important information is often difficult to find, particularly when urgently needed. The Public Trustee's Personal Record Book is an invaluable tool to consolidate all your important information in one place. These books record personal and financial information and allow you to let people know where important documents are kept if for some reason you cannot attend to your own affairs.

You can download a copy from our website or collect a copy from any of our branches.

ABOUT THE PUBLIC TRUSTEE

The Public Trustee is a Tasmanian Government Business Enterprise, originally established in 1915 to act on behalf of the Tasmanian community.

The main undertaking of the Public Trustee is to offer trustee services to the Tasmanian community by:

- Preparing estate planning documents: Wills, enduring powers of attorney and enduring guardianship;
- acting as an executor of an estate, or estate administrator if there is no Will;
- assuming the role of executor when a person named in a Will is unable or unwilling to act.
- acting as attorney for people requiring assistance to manage their financial affairs;
- acting as trustee for various types of trusts including accident compensation awards;
- assisting people to manage their financial affairs when the Public Trustee is appointed as a financial administrator by the Tasmanian Civil and Administrative Tribunal; and
- managing funds under the control of the Public Trustee in order to provide a commercial rate of return to contributors.



HOW CAN I FIND OUT MORE?

If you have any questions about our services or you'd like to discuss preparing an estate plan with the Public Trustee, please contact your nearest branch.

To get an electronic copy of *Planning Ahead: A Guide to Wills, Estate Planning and Executor Duties*

Please go to:

<https://www.publictrustee.tas.gov.au/brochures/>
and select the Planning Ahead pdf and then download

Or scan the code below.



Notes:



You have peace of mind knowing that we will administer your estate fairly.

Public©Trustee

Every moment counts

CALL US ON 1800 068 784

VISIT US AT www.publictrustee.tas.gov.au

Email: tpt@publictrustee.tas.gov.au

Fax: (03) 6235 5255

GPO Box 1565, Hobart, TAS 7001

YOUR NEAREST PUBLIC TRUSTEE LOCATION:

HOBART

LAUNCESTON

DEVONPORT

March 2024

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Every moment counts