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## WHAT HAPPENS IF YOU DON'T HAVE A WILL?

When someone passes away, their assets are distributed following their wishes in their Will. In certain circumstances estates can be challenged and if successful, may affect how the estate is to be divided.

A Will should be thought of as a living document, which should be reviewed and updated from time to time as your circumstances change.

You need to give careful consideration to who you wish to appoint as your Executor. The Executor's role is to make the funeral arrangements, realise the assets (close bank accounts, sell property etc), distribute funds to the beneficiaries and hold funds on trust for minor beneficiaries until they reach the appropriate age.

But what happens if someone passes away without leaving a Will? As no Executor is appointed, one may need to be appointed by the Court (known as the Administrator).

### **Letters of Administration**

If any of the deceased's assets have a value of over \$15,000.00, an application needs to be made to the High Court for Letters of Administration. The application will be made by the person or persons who wish to be appointed as Administrator of the estate. The Administrator has the same role as an Executor. The difference being that they are appointed by the Court instead of by the Will document.

The person or persons who are first entitled to apply are the beneficiary or beneficiaries of the estate. One beneficiary may apply with the other beneficiaries' consent.

### **Beneficiaries**

Without a Will, the Administration Act sets out how the deceased's assets are to be distributed. There are certain rules as to who is to benefit on intestacy (in other words where there is no Will). Who is to benefit will differ depending upon the family members

who survive the deceased. The general order of priority is:

1. The surviving spouse or partner
2. Children of the deceased
3. Parents of the deceased
4. Brothers and sisters of the deceased
5. Grandparents of the deceased
6. Aunts and Uncles of the deceased
7. The Crown

If the deceased is survived by their spouse/partner and also has children, then provided the estate is valued at over \$155,000 both the spouse/partner and the surviving children receive a portion of the estate. Likewise the deceased's parents may benefit together with the spouse/partner if the deceased did not have any children.

The deceased's grandchildren may also benefit if their parent dies before the deceased or before reaching full age.

### **The importance of having a Will**

By having a Will in place, you decide who your assets are to go to if you pass away. You can appoint an Executor who you feel confident to handle your affairs and follow through with your wishes.

Of course your circumstances change over time. If you would like to revisit your Will, please contact one of our team to make any changes. There is no charge for this service. Otherwise if you do not already have a Will, feel free to take advantage of our Free Wills promotion by visiting our website [freewills.co.nz](http://freewills.co.nz) to complete a Free Will form online.

**20 MINUTE FREE**

**WANT to review your Family Trust structure? THEN call us and take advantage of our 20 Minute Free interview**