



PROPERTY & BUSINESS LAWYERS

## International Wills

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For individuals with overseas assets, it has been necessary to prepare a separate Will in each jurisdiction where assets are held. If this did not occur, there was a risk of uncertainty as to whether their Australian Will would be effective and enforceable overseas. This commonly resulted in greater costs and complexity, both in implementing the separate Wills and in having the estate administered.

However, Wills executed overseas are recognised under New South Wales law because of the Convention Providing a Uniform Law on the Form of an International Will 1973 (“the Convention”). In this regard, Australia ratified this convention on 10 September 2014 which came into force on the 10 March 2015.

For a Will to have effect under the Convention a Will must be executed in a manner that complies with both New South Wales law and the Convention. While the requirements are not too dissimilar from the current requirements for executing a Will, there are some key differences. These differences are:

- There must be two independent witnesses for signing the Will, but also a third ‘authorised witness’. The authorised witness must be a Lawyer or Notary Public.
- The will-maker must declare their Will in the presence of the witnesses and authorised witness;
- The authorised witness must ask the will-maker if they also wish to make a declaration regarding the safekeeping of the Will;
- The authorised witness must complete an execution certificate, in the form set in Article 10 of the Convention and attach it to the Will. The certificate may contain the will-maker’s declaration as to where the will-maker proposes the Will be kept for safekeeping; and
- Wills executed in compliance with the provisions of the Convention will be recognised as valid in all signatory countries, regardless of where the Will is executed, the location of assets, or primary residence of the deceased.

### Disclaimer

This publication is intended only to provide a brief summary of the subject matter it covers. It does not mean to be comprehensive or render legal advice. You should not act on any matter referred to in this publication without first obtaining relevant professional advice.

All possible estate administration problems may not be resolved by having an International Will, which has been validly executed. For example, anyone seeking to obtain a grant of probate of an International Will in New South Wales must still satisfy its probate requirements. Notwithstanding this, in many instances, a Will executed in accordance with the Convention, should enable a quicker, cheaper and less complicated administration of estates of persons with overseas assets.

If you have international assets, you should check with your solicitor if the country where your assets are located is a signatory to the Convention. A full list of Convention countries is available on the Convention's website at <http://www.unidroit.org/status-successions>.

Notwithstanding the fact that the country where your assets are located is not a Convention country, there are still ways of managing your estate planning.

### The following list details the Legal Services we provide:

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- Estate Planning
- Asset Protection Planning & implementation
- Notarial Services

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- Corporate & Commercial Law
- Retail, Commercial & Industrial Property
- Local Government Law
- Business Law including sale and purchase
- Health Law
- Employment & Industrial Law
- Intellectual Property
- Trade Practices
- Retail, Commercial & Industrial Leasing
- Franchising
- Clubs & Associations
- OH & S Law
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