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Who should be my executor?

Most people realise the importance of making a Will but sometimes not enough thought is given to the appointment of an executor. Presently, there is no ability under Probate legislation to delegate an appointment of executor. This means that if for some reason an executor is unable to act or alternately the named executor does not want to act there needs to be someone who is beneficially entitled in an estate to be eligible to make the application in their place.

Traditionally husbands & wives tend to make wills appointing each other executors and give everything to the survivor. The problem with this is that these days there is a greater possibility for the survivor of a married couple to be in advanced years at the time their partner dies and the survivor may not be in a position to act as the deceased partner's executor.

In the common Will I describe above there is no such person who can be named as an alternate executor as the surviving spouse is the only person who benefits under the estate.

One suggested way around this problem is to consider not only appointing your spouse an executor but also appointing one or more of the children as well. That way if the surviving spouse isn't able to make the application for Probate the child or children can do it. If the spouse is still hail and hearty, the kids can renounce and leave it to mum or dad to sort out their affairs.

Being an executor can be challenging, especially where there are a lot of beneficiaries.