

# CROSS-COUNTRY WILLMAKING FOR BETTER ASSET PROTECTION

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In a rapidly expanding global economy, it is not uncommon for testators to hold significant assets in various countries across the globe. This can present challenges to effective estate planning, particularly where assets are ‘immoveable’, for example real estate. To address the likelihood of conflict in multi-national estate administration the Australian government has adopted the *Unidroit Convention Providing a Uniform Law on the Form of an International Will* (‘the Convention’). The Convention took effect on 10 March 2015 in Queensland by way of new Part 2, Division 6A – International Wills of the *Succession Act 1981* (Qld).

The International Institute for the Unification of Private Law (‘Unidroit’) is an independent collective of (at present) 63 States, established in 1926 to coordinate private law rules across jurisdictions and assist in facilitating international trade and commerce through uniformity of law. The Convention for international Wills makes it simple to create a Will that is recognised by each signatory State. The validity of the Will itself corresponds with the technical aspects already effective in the Queensland jurisdiction, for example that the Will can only be made for one individual, that it must be in writing, that it must be executed in the presence of witnesses and so forth. The only additional requirement creating international validity is that of the three necessary witnesses, one must be a lawyer (registered in any of the signatory States, not necessarily the same as that of the Testator), or a notary public. The ‘authorised’ witness is to affix a certificate to the Will in substantially the same form as that set out in Article 10 of the Annex to the Convention, confirming that the Will has been appropriately formed in accordance with local standards, and can henceforth be recognised as an International Will.

Wills recognised by the Convention can be made in any language, meaning that in most cases it won’t be necessary to seek advice in each country where various assets are held. The one lawyer can deal with all assets, wherever located, under a single Will which is extremely beneficial for minimising the risk of conflict between multiple Wills in different jurisdictions, and potentially different languages, for the

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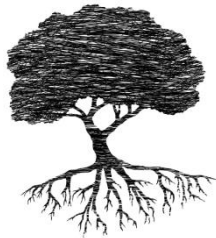
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same person, not to mention the great convenience and saving in costs and ensuring that individual requirements are not lost in translation.

Those holders of immovable assets outside of Australia may wish to consider a review of their current estate planning arrangements, particularly in light of this recent development in international law.

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