

# Making a will

Your will is one of the most important documents you will ever sign. A badly written will often leads to delays and disputes.

The information provided here does not cover all issues about making a will. It is only about Western Australian law on wills.

Where possible, it is best to get the help of a lawyer rather than drafting your own will.

## What is a will?

A will is a legal document that sets out how you wish your property to be distributed after you die. For example, your will might say that you want all your property to go to your partner after you die, or it might say you want your property divided among many different people.

The people who receive property under your will are called 'beneficiaries'.

Your property (for example, your personal items, real estate, and money) is also called your 'estate'. You can also set out other matters in your will, such as:

- Whether you wish to be buried or cremated.
- Whether you wish to donate your organs.
- Payment to your executor.
- Forgiving a debt owing to you.
- A gift to a charity.

In your will, you must nominate a person who will carry out the wishes set out in your will. This person is called the 'executor'. You should:

- Think carefully about who you wish to appoint as your executor and choose someone who is trustworthy.
- Ask the person you wish to appoint as executor for permission to appoint them.
- Consider appointing an alternative executor in your will, in case your first choice of executor refuses to accept the appointment or is no longer able to perform the role.

## How to make a will

You can make a will at any time.

It is important for a will to be correctly signed and witnessed.

A will is an important legal document that must follow strict legal requirements. It is best to seek legal advice, and have it drafted by a lawyer to ensure that it is legally valid and accurately reflects your wishes.

**A badly written will often leads to delays and disputes about the distribution of your estate.**

## What happens if you do not have a will?

If you do not make a will, the law says how your property will be distributed. The rules around this are complex and may not reflect how you wish your property to be distributed.

Legal Aid WA has an infosheet 'Dying without a will' that explains more about this topic.

## What if someone is left out of a will?

If your will does not properly look after a person that you had a duty to provide for, that person may be able to apply to the Supreme Court to challenge your will. In some circumstances, the Supreme Court can change the distribution of your estate.

## Reviewing your will

If you have a will, you should review it regularly. You should check that your will continues to reflect what you want to happen to your estate. There may have been changes to your financial or family circumstances. For example, one of your beneficiaries may have become unable to work for health reasons and you now wish to leave them more money.

If you wish to change your will, it is important that a lawyer who specialises in wills helps you in making changes to your will or in writing a new will.

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## Changes in relationships

If you get married after you have made a will, your marriage cancels your will unless it was made in contemplation of marriage. If you have married after making your will you should get legal advice from a lawyer to find out if your will is valid.

If you divorce after you have made a will, your will may be cancelled. You should seek legal advice to find out if your divorce has affected your will.

## Where to find more information

Legal Aid WA has more information on its website about making a will.

Lawyers working in the Elder Rights WA service at Legal Aid WA can provide advice to consider before making a will, but they do not provide a will drafting service.


Email: [ElderRights@legalaid.wa.gov.au](mailto:ElderRights@legalaid.wa.gov.au)


Visit: [www.legalaid.wa.gov.au/find-legal-answers](http://www.legalaid.wa.gov.au/find-legal-answers) and select 'Wills and estates' under the Managing Your Affairs section for more information.

## Where to get legal help

- Citizens Advice Bureau may be able to assist in preparing these documents at selected branches. Fees may apply. You should enquire about their costs before you speak with a lawyer.  
Call: (08) 9221 5711  
Email: [queries@cabwa.com.au](mailto:queries@cabwa.com.au)  
Visit: <https://cabwa.com.au>
- Peel Community Legal Services offer a simple Will service for people living in the Peel Region. For a low fee, a lawyer will help you understand the requirements of a simple will and then draft a will to meet your personal needs. Eligibility criteria apply.  
Call: 9581 4511  
Visit: [www.peelcls.com.au](http://www.peelcls.com.au)
- The Public Trustee drafts wills for a fee. The Public Trustee will only draft a will that:
  - nominates the Public Trustee as your one and only executor; or
  - nominates your spouse (or de facto partner) as your executor and the Public Trustee as your substitute executor.  
Call: 1300 746 116  
Email: [public.trustee@justice.wa.gov.au](mailto:public.trustee@justice.wa.gov.au)  
Visit: [www.wa.gov.au/service/justice/civil-law/make-will-public-trustee](http://www.wa.gov.au/service/justice/civil-law/make-will-public-trustee)
- The Law Society of WA has a Find a Lawyer tool on its website. We recommend that you obtain an estimate of costs before engaging a private lawyer.  
Call: (08) 9324 8600  
Visit: [www.lawsocietywa.asn.au/find-a-lawyer](http://www.lawsocietywa.asn.au/find-a-lawyer)
- Community Legal WA has a tool on its website to assist you to find community legal centres throughout Western Australia which may be able to help with your legal issue.  
Visit: <https://communitylegalwa.org.au>

## LEGAL AID WA CONTACTS

 **Infoline:** 1300 650 579

 **Legal Yarn:** 1800 319 803 (for First Nations callers)

 **Website/InfoChat:** [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)

**Interpreting and relay services to help you contact us:**

 **Translating & Interpreting Service:** 131 450

 **National Relay Service:** 133 677

### **Perth office**

32 St Georges Terrace,  
PERTH WA 6000  
1300 650 579  
(08) 9261 6222

### **Goldfields Office**

Suite 3, 120 Egan Street,  
KALGOORLIE WA 6530  
(08) 9025 1300

### **Midwest & Gascoyne Office**

Unit 8, The Boardwalk,  
273 Foreshore Drive,  
GERALDTON WA 6530  
(08) 9921 0200

### **East Kimberley Office**

98 Konkerberry Drive,  
KUNUNURRA WA 6743  
(08) 9166 5800

### **West Kimberley Office**

Upper Lvl, Woody's Arcade,  
15 – 17 Dampier Terrace,  
BROOME WA 6725  
(08) 9195 5888

### **Southwest Office**

7<sup>th</sup> Floor, Bunbury Tower,  
61 Victoria Street,  
BUNBURY WA 6230  
(08) 9721 2277

### **Great Southern Office**

Unit 3, 43 – 47 Duke Street,  
ALBANY WA 6330  
(08) 9892 9700

### **Pilbara Office**

28 Throssell Road  
SOUTH HEDLAND WA 6722  
(08) 9172 3733

### **Indian Ocean Office**

Administration Building,  
20 Jalan Pantai,  
Christmas Island,  
INDIAN OCEAN WA 6798  
(08) 9164 7529

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