



FAQs – Wills and Probate

Q: What are the legal requirements for a Will in Western Australia?

A:

- The Will maker (**Testator**) must be at least 18 years old and of sound mind, memory and understanding.
- The Will must be in writing and signed by the Testator (or by someone else at the Testator's direction and in their presence).
- The signature of the Testator must be made in the presence of two witnesses, who must also sign the Will in the Testator's presence.
- The subscribing witnesses must not be beneficiaries or related to beneficiaries in the Will.
- Any changes to the Will (including codicils) must be in writing and also be signed and witnessed in the same manner as the original Will.
- The Will should be kept in a safe place and the executor of the Will and family members should be informed of its location.

Q: How to make a Will in Western Australia?

- (Consider your debts and liabilities): Before making a Will, it is important to consider your current debts and liabilities and any debts and liabilities that may arise as a result of your passing (including funeral expenses, legal costs, accounting costs, taxes, and other disbursements).
- (Consider your assets and beneficiaries): Before making a Will, it is important to consider what assets you have, who you want to receive them and if there are any special circumstances to consider. Any gifts and bequests in your Will should be specific and without any ambiguity.
- (Choose an executor): An executor is the person who is responsible for carrying out the wishes in your Will. This can be a family member, a friend, or a professional advisor.
- (Consult a lawyer): It is recommended to consult a lawyer when making a Will to ensure that it is properly drafted and legally valid.
- (Write the Will): The Will must be in writing and signed by the Testator in the presence of two subscribing witnesses. A statement should be included that all previous Wills and codicils are revoked.



- (Appoint a guardian): If you have children under the age of 18 years, you should appoint a guardian in your Will to ensure that your children are taken care of in the event of your death.
- (Keep the Will in a safe place): Once the Will is complete, it should be kept in a safe place such as a fireproof safe or with a lawyer.
- (Review and update the Will): It is important to review and update the Will regularly, especially if there are changes in circumstances such as the birth of a child, death of a beneficiary, or a change in assets.

Q: How to make application for probate in Western Australia?

A:

- (Determine if probate is necessary): Probate is required if the deceased person owned real estate, shares, substantial assets and / or a large amount of money in their own name. If the estate is small or consists only of jointly owned assets, probate may not be required.
- (Identify the executor): The executor is the person named in the Will who is responsible for administering the estate. If the Will does not specify an executor, a representative or family member of the Testator may apply to Court to be appointed as executor of the Testator's deceased estate.
- (Prepare the application): The application for probate must be completed and lodged with the Supreme Court of Western Australia. The application must include an affidavit executed by the executor, an inventory of the deceased person's assets and liabilities and the original Will and death certificate of the deceased Testator.
- (Receive the grant of probate): If the Court is satisfied that the Will is valid and the executor is suitable, it will grant probate. This gives the executor legal authority to administer the estate.
- (Administer the estate): The executor is responsible for collecting the deceased person's assets, paying debts and taxes, and distributing the estate according to the terms of the Will.

If you require any assistance in drafting a Will or applying for a grant of probate, feel free to contact Murfett Legal. Our details are as follows:

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