



MAKING A WILL

(ALSWA website version)

Aboriginal Legal Service of Western Australia (Inc)

Striving for justice for Aboriginal and Torres Strait Islander peoples for over thirty years

www.als.org.au - Freecall ALSWA within WA 1800 019 900

What is a Will?

A Will is a legal document that says who you wish to leave your money and belongings to, after you die. It also says if you want to be buried or cremated and how you would like your children looked after.

Who should make a Will?

Everyone over 18 who is of sound mind should make a Will.

A person who is not of sound mind cannot make a Will. If you are sick or in hospital and you want to make or change a Will, you should get a doctor's report to certify that you are of sound mind.

It is important to make a Will if you are of sound mind because if you do not, the law will decide how your money and belongings will be divided among your family and the Government. This means that the people who you wanted to get your things may not get them.

How do you make a Will?

Lawyers can help you make a Will, or you can write your own Will. If you write your own Will you should still get legal advice about how to set it out.

A Will must be signed, dated and witnessed by 2 people over 18 or it is invalid. Each witness must be present when the Will is signed by you and by the other witness. Each page of the Will must be signed by you and both witnesses.

There are rules about who can be a witness to your Will. You should not use as a witness:

- Anyone who will receive something from your Will
- Anyone who you name in your Will to be Executor (the person who will carry out your instructions).

You need to pick a person to be your Executor who you trust and who you think will follow your instructions properly.

Aboriginal and Torres Strait Islander people can contact their nearest Aboriginal Legal Service office for help to make a Will.

Can Wills be changed?

You can change your Will by either:

- Destroying the old Will and making a new one, or
- Making a codicil to your current Will. A codicil is a statement changing the wording of your current Will.
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**It is important to change your Will
if you have a major change in your married or defacto relationship.**

Where are Wills kept?

You should keep your original Will somewhere safe, but where it will be found after your death. A copy of your Will is not a valid legal document.

Validity

After you die, the Probate Officer at the Supreme Court will decide if your Will is valid. If it is valid, the Probate Officer will authorise your Executor to do what your Will says.

Never mark, staple or pin anything to your Will because the Probate Officer might reject it.

If there is any dispute about your Will, the Supreme Court will decide.

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The information contained in the website version of this ALSWA pamphlet is correct as at May 2008, HOWEVER the law may change at any time.

Material in this publication does not constitute legal advice, but is intended for information only.

For legal advice please contact your nearest office of the Aboriginal Legal Service of Western Australia (Inc). ALSWA'S Head Office is at 7 Aberdeen Street, Perth and other ALSWA offices are located at Albany, Broome, Bunbury, Carnarvon, Derby, Fitzroy Crossing, Geraldton, Halls Creek, Kalgoorlie, Kununurra, Laverton, Meekatharra, Newman, Northam, Roebourne, South Hedland and Warburton.



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