



Make Your Own Wills

Will Questionnaire

USE ONLY IF YOU ARE IF YOU ARE SINGLE, DIVORCED, SEPARATED, OR WIDOWED AND "HAVE CHILDREN"

Please complete the following questionnaire and upload with payment

You will receive your documents (ready for signing with instructions) in 2-3 business days or sooner.

A Will is a legal document that comes into effect when you die. It allows you to appoint a person or persons (called an Executor) to liquidate and wind down your estate. The Executor must pay all legally enforceable debts and expenses and then must distribute your estate to person(s) you have named in your Will (called beneficiaries). A Will also allows you to appoint a guardian or guardians for any minor children.

You must be at least the age of majority to make a Will.

Section 1: Your Information

Name: _____
(insert your full legal name)

Any known alias: _____
**include only if you have different names on your birth certificate and other government/banking/official documentation, and/or on title to any real estate or mines and mineral rights, etc. (for example: your name is Robert, but some of your documentation states "Bobby" or "Bob" as your first name)*

Your Current Location *(please DO NOT insert your full address - just location):*

_____, _____
(insert name of City/Town/Hamlet/Municipality) (insert Province/Territory, in full)

Section 2: Executor's Information

****you MUST complete #1 and #2 BELOW - #3 is *Optional****

GUIDANCE: *please refer to blog post "6 Factors to Consider when Appointing an Executor"*

IMPORTANT: *the individuals you name below MUST be of legal age (NO MINORS)*

1. **FIRST appointed Executor:**

Name: _____
(insert full legal name)

Relation to You: _____
(for example: spouse, common law partner, friend, sister, brother, mother, etc.)

In the event the Executor appointed above is unable to carry out the duties of Executor, you need to appoint an alternate (or joint) Executor to carry out your wishes in your Will.

2. SECOND appointed Executor:

Name: _____
(insert full legal name)

Relation to You: _____
(for example: spouse, common law partner, friend, sister, brother, mother, etc.)

Appoint this **SECOND** Executor to act: (select only **ONE** of the options below)

After the first appointed Executor is unable to act

(common for married/common-law spouses);

Jointly with the first appointed Executor;

(both **MUST** do everything together no matter what the circumstances);

Joint and several with the first appointed Executor

(both can act together or one can act alone if necessary, for example: one is away on vacation and is unable to sign an important document in person)

3. **OPTIONAL**** THIRD appointed Executor: Note, It is rare to have a third appointed Executor, however, some people prefer to have three. If you wish to add a third appointed Executor, please complete the following:**

Name: _____
(insert full legal name)

Relation to You: _____
(for example: spouse, common law partner, friend, sister, brother, mother, etc.)

Appoint this **THIRD** Executor to act: (select only **ONE** of the options below)

After the first two Executors are unable to act;

Jointly with the first and second appointed Executors

(all three **MUST** do everything together no matter what the circumstances);

Joint and several with the first and second appointed Executors

(all three can act together or one can act alone if necessary, for example: only one is able to sign an important document in person);

Jointly with the second Executor only

(both **MUST** do everything together no matter what the circumstances);

Joint and Several with the second Executor only

(both can act together or one can act alone if necessary, for example: only one is able to sign an important document in person)

Foreign Executors

A "foreign" executor is any executor who does not reside in the same province or territory as you.

NOTE: if you appoint an executor *who does not reside* in the same province/territory as you, OR if your executor moves to another province/territory since the making of your Will, the court in your province/territory may require that "foreign" executor to post a performance bond. A performance bond is generally 2.5 times the value of your estate and must be posted by the executor from his/her own funds/resources. The performance bond is

“insurance” that the “foreign” executor does not flee your jurisdiction with all of the estate assets and leave the beneficiaries with nothing. This can lead to your executor renouncing (or refusing) to act as your executor on your death, because he/she cannot afford the performance bond. The requirement for a performance bond, however, can be overcome in a variety of ways: one of which is to place an intention in the Will. In the event you have named a "foreign" executor or in the event one of your named executors relocates outside of the province/territory, please select **ONE** option below:

Require the Performance Bond (*you Will, will be silent on this*)

Waive the Requirement for the Performance Bond (*your Will, will have a special clause inserted*)

Executor Compensation:

GUIDANCE: please refer to blog post "What are the Jobs of an Executor"

Depending on where you reside in Canada, your Executor is entitled to charge a "reasonable fee" against your estate as compensation for acting as your Executor. What is reasonable depends on various factors: the complexity of your estate, the time and effort expended by your Executor, whether there are ongoing trusts to be administered and managed by your Executor, etc.

NOTE: your Executor is entitled to be reimbursed for all reasonable expenses incurred in the administration of your estate regardless of whether they take fees/compensation

Please select **ONE** option below:

I would like to allow my Executor to be able to determine whether they would like to charge a reasonable fee;

I would like to specify that my Executor must charge ____percent (%) of the GROSS value of my estate as a fee;

I would like to specify that my Executor will be paid a total of \$ _____ as a fee;

I would like to specify that my Executor will be paid \$ _____ per hour as a fee;

I would **NOT** like my Executor to be paid in acting for my estate.

Section 3: Guardian For Minor Children

Please complete this section if you have any children who are under the age of majority

OR if you are planning on having children in the near future.

Otherwise, please skip this section and move on to the next section.

Name of **other living** Parent/Legal Guardian of your Minor Child(ren):

(insert full legal name)

In the event the above named parent/legal guardian of your minor child(ren) dies or is unable to act as guardian of your minor children, please provide the following information on the Guardian(s) you wish to appoint.

Appointed Guardian:

Name: _____
(insert full legal name)

Relation to you: _____
(for example: friend, sister, brother, mother, etc.)

Alternate or Joint Guardian - *Optional*

(NOTE: you do not have to complete this section unless you want to name a Joint Guardian with the Guardian you have named above OR an alternate Guardian in the event the above named Guardian dies or is unable to act as guardian of your minor children)

Name: _____
(insert full legal name)

Relation to you: _____
(for example: friend, sister, brother, mother, etc.)

Appoint this Guardian to act: (only select ONE option below)

After the first named Guardian is unable to act

Together (jointly) with the first named Guardian

Section 4: Disposition of Remains

Please select what you would like done with your remains (select only **ONE** of the options below):

I would like my remains cremated and I have prearranged funeral plans with a funeral home named:

(insert name of funeral home only)

I would like my remains cremated and (select **ONE** of the options below):

scattered at _____
(insert place(s) you would like your cremated remains scattered)

interred at _____
(insert name of cemetery)

I have no specific wishes and leave it to the discretion of my Executor

I would like my remains buried and I have prearranged funeral plans with a funeral home named:

(insert name of funeral home only)

I would like my remains buried (select **ONE** of the options below):

in a plot at _____
(insert name of cemetery)

I have no specific wishes and leave it to the discretion of my Executor

I do not have any specific wishes at this time and would like to leave it up to the discretion of my Executor

None of the above, I would like the following done with my remains:

(please specify wishes)

Organ & Tissue Donation: (select only **ONE** of the options below):

I would like to donate my organs and tissues for transplant purposes

I **do not** want to donate my organs and tissues for transplant purposes

I have not decided and wish my Will to stay silent on this

Section 5: Disposition of Estate

GUIDANCE: please see blog post "Not All Property is Governed by Your Will"

This is the section where you get to gift away your estate as you wish. Your estate will be vested in your Executor to carry out the dispositions as directed by you in your Will. Upon your death, your Executor becomes the trustee of your estate and must use the assets of your estate to first pay all legally enforceable debts, funeral expenses and all costs associated with administering your estate before gifting your estate to your beneficiaries

There are two types of gifts you can make in your Will:

- **Specific Gift:** a gift of a specific item or a specific sum of money to a specific individual or institution. Specific gifts are disbursed *before* residual gifts. It is less common to see specific gifts in Wills, but nonetheless you have the freedom to make those types of gifts. (*Examples of a specific gift would be "I give, devise and bequeath my 1989 Ford Ranger to my nephew, John Smith, for his own use absolutely" OR "I give, devise and bequeath the sum of \$10,000.00 to the Canadian Unicef Committee, located in Toronto, Ontario to be used to provide developmental aid to children"*)
- **Residual Gift:** a gift of whatever is left from your estate after debts, funeral expenses and administrative expenses are paid and specific gifts (if any) are given.

Do you wish to give "Specific Gifts" to beneficiaries in your Will? YES NO

If **NO**, please SKIP this section and move on to Residual Gifts Section below

If **YES**, please complete the following:

Specific Gifts * Optional*

Specific Gift #1

Name of Gift Recipient: _____
(full legal name of individual OR full legal name of institution/charity)

If Individual -relation to you: _____
(example: spouse, friend, sister, brother, mother, etc.)

If Charity/Institution - current location : _____
(insert city/town/etc. and province)

Nature of the Gift: _____
(example: my diamond ring, my coin collection, my 2011 GMC Sierra truck, or \$10,000.00)
please list ALL specific gifts you wish to gift to this individual/institution

If the charity/institution you have selected above no longer exists at the time of your death, then:
(select **ONE** option below)

I would like my Executor to select a replacement charity nearest in purpose to receive the gift;

I would like the gift to form part of the rest and residue of my estate

SHOULD YOU WISH TO MAKE ADDITIONAL SPECIFIC GIFTS, PLEASE DOWNLOAD AND COMPLETE THE "ADDITIONAL SPECIFIC GIFTS WORKSHEET" AND UPLOAD THE SAME WITH THIS COMPLETED QUESTIONNAIRE

Residual Gifts - **Mandatory**

The remainder of your estate, after all debts and funeral expenses have been paid and specific gifts (if any) are given, is called the "rest and residue". The person or persons you designate to receive the rest and residue of your estate are called "residual beneficiaries".

It is always important to specify an alternate residual beneficiary (or beneficiaries) in the event your first named beneficiary dies or is otherwise unable to inherit under your Will. If you fail to do so, the wills and succession legislation in your jurisdiction will provide the order in which your blood relatives are to inherit your estate.

*Note: if you are happily married or in a common law partnership, your spouse/common law partner is typically the first named Beneficiary and receives 100% of the rest and residue of your estate. There is legislation and caselaw that provide for legal challenges and recourse by your spouse/partner should they not be given 100% of the rest and residue of your estate. **If you are currently married or in a common law partnership and wish to not provide your spouse/partner with all of the rest and residue of your estate, you should seek the advice of a qualified legal professional.***

You have downloaded the questionnaire for "Single, Divorced, Separated or Widowed and HAVE CHILDREN", please complete the following: (Note: if you are married or in a common law relationship OR you do not have any children please discontinue use of this questionnaire and select the appropriate questionnaire)

The residue of my estate to:

my children equally **OR**

my child *(please select children if you are expecting/planning more children in the near future)*

my child(ren) _____ but not to my child(ren)

_____. If cutting out someone make sure you complete the Cutting Someone Out of Your Will section below.

**please note the definition of Children does NOT include Step-Children. If you want to gift to your Stepchildren you need to specify this by selecting the following:*

I wish to include my Step-Children in the definition of children in my Will

I do not wish to gift to my children. If cutting out someone make sure you complete the Cutting Someone Out of Your Will.

Are one or more of your children currently minors? Yes No

If yes, complete the Minor Children section below.

in the event a child(ren) of mine predeceases me, then:

to the child(ren) of my child(ren) *(my grandchildren)*

to my grandchild(ren) _____ but not to my grandchild(ren)

_____. If cutting out someone make sure you complete the Cutting Someone Out of Your Will section below.

I do not wish to gift to my grand(children). If cutting out someone make sure you complete the Cutting Someone Out of Your Will.

Are one or more of your grandchildren currently minors? Yes No

If yes, complete the Minor grandchildren section below.

in the event ALL of the above beneficiaries predecease OR if you are not leaving gifts to your children,

then: *(include full legal name(s); relation to you AND the percentage of your estate each named beneficiary is to receive for example: 25% to my friend John Smith OR "½ divided equally among my siblings and ½ divided equally among my spouse's siblings" etc.)*

if any of these beneficiaries die, their share of my estate is to be:

*Divided **proportionately** among the surviving beneficiaries named herein;*

*Divided **equally** among the surviving beneficiaries named herein;*

Divided equally among the Beneficiary's children (if they have any);

Divided equally among the Beneficiary's siblings who survive me (if any).

Minor Children: *only complete this section if you have minor children inheriting your estate*

Minors cannot legally hold property until they reach the age of majority (18 or 19 years of age depending on the province or territory in which you reside). If a child inherits from an estate while they are still a minor, the Public Guardian and Trustee or the court (whichever applies in your jurisdiction) will step in to hold funds in trust for that child until they reach the age of majority. The Public Guardian and Trustee/court typically charge administrative fees for managing these trusts. The fees may be such that they negate interest earned and begin to encroach upon the principal of the trust. You can, however, specify in your Will that a minor's share is to be held in trust by your Executor until the child reaches the age of majority or older.

For example, you live in Alberta and have an 18 year old child and know they are not good with money, let alone your entire estate. You can specify in your Will that your child will inherit X% of their share of your estate upon attaining the age of 18 years, then another Y% when your child reaches the age of 21 years and the remainder when your child reaches the age of 24 years. The possibilities are endless.

Please select your preference for gifts to minor children in your Will:

Minor children are to receive their entire share at age of majority

Minor children are to receive their entire share at _____ years *(must be above the age of majority in your province or territory - for ease on your Executor, the age should be no higher than 35 years)*

Minor children will receive their share in staggered payments upon attaining specified ages as follows:

_____ % at age _____ (years)

_____ % at age _____ (years)

_____ % at age _____ (years)

**Note: the percentages must total 100% - for ease on your Executor, the final age should be no higher than 35 years of age)*

*(Optional)*** Prior to attaining the age at which minor children are entitled to their entire share, my Executor can use the funds held in trust for minor children for the following:

- post secondary education and related expenses;
- to fund a reasonable down payment on a house;
- to pay for reasonable wedding expenses;
- to _____;

for each of the minor children

Charities: *only complete this section if you are gifting to charities/institutions*

If a charity/institution you have named in your Will no longer exists at the time of your death, then:
(select **ONE** option below)

- I would like my Executor to select a replacement charity nearest in purpose to receive the gift;
- I would like the gift to form part of the rest and residue of my estate

Loans Owed by Others to You: *only complete this section if you have loaned money to others during your lifetime, such loan is documented as a loan, and it has not yet been repaid in full to you*

During your lifetime, you may have loaned money to others. You may wish to forgive such loans upon your death or you may wish that a beneficiary's share in your estate be reduced by the value of the loan still owing to you at the time of your death. Either way it is exceptionally important that you keep detailed records of money lent by you, as well as repayments received, so your Executor has all the information they need to collect these loans upon your death. In order to be considered a loan, you need to have written documentation showing the funds were given as a loan and not as a gift.

Loan #1

Full Legal Name of Borrower: _____

Relation to You: _____
(for example: friend, sister, brother, mother, etc.)

Total amount of money lent to this Borrower: \$ _____

Upon my death, I wish to:

- Forgive this loan in full
- Offset the gift to this Beneficiary against the gift to them under my Will
(Note: only select this if the borrower is also a beneficiary in your Will)
- Require the repayment of the loan in full

SHOULD ADDITIONAL PEOPLE OWE MONEY TO YOU, PLEASE DOWNLOAD AND COMPLETE THE "ADDITIONAL BORROWERS WORKSHEET" AND UPLOAD THE SAME WITH THE COMPLETED QUESTIONNAIRE

Cost of Challenging

In some instances, it may become apparent to a Testator (the person making a Will) that some of their beneficiaries may contest the gifts in the Will. This can happen when beneficiaries think they aren't receiving their "fair share". It is important to note that inheritance is a gift and NOT a right. Your estate is just that...your estate, and you can do with it whatever you choose, including gifting it in any manner to whomever you choose in your Will.

When a person contests a Will, they bring legal proceedings that muddy the waters and are used to undue your wishes you specified in your Will. These legal proceedings cause a considerable amount of delay and can eat up estate assets very quickly, leaving nothing left for your beneficiaries.

If you anticipate that your Will may be contested, you might want to consider having a section that specifies that any legal costs to defend a challenge to your Will be deducted dollar for dollar from the challenging beneficiary's share of your estate.

Would you like to have a clause that requires a challenging beneficiary to bear the cost of the legal challenge by deducting those costs from their share of the inheritance from your estate?

YES NO

Cutting Someone Out of Your Will: *only complete this section if you are cutting someone out of your Will*

In some instances, when making your Will you may decide that you do not want to gift to a certain person (that would otherwise have a right to inherit) or you would like to gift only a nominal amount to someone rather than a larger share of your estate. Someone who would otherwise have a right to inherit would be your spouse or partner, your children, your grandchildren.

The most typical reasons for cutting someone out of your Will or providing a lesser gift than that person would expect are:

1. The “would be” beneficiary has adequate assets to support themselves in the event of your death. This reason is typically used for spouses who have each brought substantial assets into the relationship and when one or both has children from a previous relationship;
2. You have a strained or estranged relationship with the “would be” beneficiary (you do not get along or have contact);
3. You have provided for a gift or gifts to this “would be” beneficiary outside of your Will (ie. designated them a beneficiary of your investments, TFSA, RRSPs, pension plans or added them to title to property or otherwise gifted to them outside of your estate assets). For further information please see the blog post: Not All Property is Governed By Your Will
4. You and the “would be” beneficiary are legally married but are currently separated and/or plan on divorcing;
5. The “would be” beneficiary is part of a government assistance program and you do not wish for them to be disentitled from the supports they receive under that program. *It is important if you have a “would be” beneficiary on a government assistance program that you review the governing legislation with a legal professional to ensure an inheritance from your estate would not disentitle that person to the benefits of the program.*

There may be other important reasons for cutting someone out of your Will or providing a lesser gift than that person would expect to receive.

When you start gifting uneven amounts to beneficiaries who would typically receive equal shares, there is great incentive for the beneficiary receiving the least amount to challenge your Will in court. For instance, you have three children but have an estranged relationship with one child. You decide to either cut them out entirely or you gift a small sum, like \$10.00, to that estranged child, and gift the remainder of your estate equally to your two other children. That estranged child has great incentive to contest your Will in court to try to have it declared invalid so that they may receive a greater amount of your estate.

If you do choose to "cut" someone out of your Will, you should always have a statement in your Will addressing this so it is absolutely clear to everyone reading it that you meant to do so. More importantly, you want to make it clear to the court, in reading your Will, that your intention was just that.

Please complete the following for the person(s) you wish to cut out from your Will:

Person #1:

Name: _____
(insert full legal name)

Relation to you: _____
(for example: friend, sister, brother, mother, etc.)

Select the reason for cutting the person out:

They have adequate assets to support themselves in the event of my death

We have a strained or estranged relationship *(we do not get along or have contact)*

I have provided for a gift or gifts to this person outside of my Will

(for example: I have designated them as a beneficiary to my investments, pension plans, added them to title to property otherwise gifted to them outside of my estate assets)

We are currently separated and plan on divorcing

They are part of a government assistance program and a gift from my estate may affect their eligibility to continue to receive benefits from the program

Other: _____
(please specify)

SHOULD YOU WISH TO CUT ADDITIONAL PEOPLE OUT OF YOUR WILL, PLEASE DOWNLOAD AND COMPLETE THE "CUTTING OUT ADDITIONAL PEOPLE WORKSHEET" AND UPLOAD THE SAME WITH THIS COMPLETED QUESTIONNAIRE

Foreign Property: *only complete this section if you own property outside of Canada*

Foreign Property is defined as property you own in another country (outside of Canada). It could be a home, bank account, shares in a private company (not: not publicly traded stock) or other business interests/property. When you own foreign property, it may be advisable to give your Executor the power to appoint a representative in that foreign jurisdiction to help deal with your estate assets in that jurisdiction in order to complete the administration of your estate.

Provide the name(s) of each Country in which you own property:

Section 6: Signing

The date of signing on the documents generated by makeyourownwills.com will default to the year in which you have paid for the documents. The day and month will be blank for completion by you. The year defaults to ensure that you sign the documents in a timely manner once generated. **Instructions for signing will be provided with your Will.**