LEGAL INFO NOVA SCOTIA

Instructions for signing your will



Download and print:

- ❑ Your will;
- ❑ These instructions for signing your will;
- ❑ The fillable PDF Affidavit of Execution that applies to you. Fill it out, then print it. *(Step 4 tells you which version of the affidavit to use.)*

1 Read your will. Think about having a lawyer look it over with you.

Checklist:

- ❑ I understand what the will says.
- ❑ The will says what I want it to and reflects my wishes.
- ❑ All names are spelled correctly.
- ❑ The pages are numbered correctly.

If anything in your will needs to be changed, you must make this change in the Wills App, and then print a new copy. Do not cross things off or try to fix it by hand. You must have a clean copy of your will to sign. Everything in it must be correct and say what you want it to say before you sign it.

If there is something in the will that you do not understand have a lawyer look over your will before you sign it.

2 Choose your witnesses.

Before you sign your will, arrange for two people to be your witnesses.

Your witnesses must be with you when you sign your will for it to be legally valid, in the same room, and for the whole time, all 3 of you initial and sign the will.

The witnesses must be at least 19 years old and must be mentally capable.

Your witnesses cannot be people who are named in your will as beneficiaries, and they cannot be married to someone who is a beneficiary in your will. The best practice is to have witnesses that have no connection to your beneficiaries.

If your executor is not a beneficiary and is not married to a beneficiary, then your executor may also act as a witness.

Your witnesses do not need to know what your will says. They just need to know who you are and that you're signing your will in their presence.

3 Sign and date your will.

Sign your will while the two witnesses are with you and tell the witnesses that the will is yours.

- ❑ Put your initials on the bottom right corner of each page.
- ❑ Fill in the date before you sign it.
- ❑ Sign your will at the end in the space provided.
- ❑ Your witnesses should also each put their initials on the bottom right corner of each page.
- ❑ Your two witnesses must then also sign the will in front of you, and in front of each other.

TIP: The witnesses don't need to read your will, although if you are blind or will sign by making a mark, they will hear your will read out to you before you sign. The witnesses need to watch you sign your will and sign and initial it themselves in front of you.

If you cannot sign your will

If you are able to read the will but cannot sign your name on it because of a physical disability like arthritis, you may sign by making your mark, like an "X," on the signature line. If you do this, use version 2 of the affidavit of execution. *(See Step 4)*

If you can read the will but cannot sign your name or make your mark, you will need to see a lawyer. You will need to have someone else sign the will for you. There are special rules for doing that, and a lawyer can help you do that the right way to make sure your will is legally valid.

If you cannot read your will

Someone must read the whole will out loud to you and your witnesses before you and your witnesses sign it. If you do this, use version 2 of the affidavit of execution. *(See Step 4)*

4 Get the affidavit of execution signed.

An affidavit of execution is a sworn statement made by one of the witnesses to your will. When they sign it, they are confirming that they saw you sign your will on a certain date and that you signed it in front of both witnesses at the same time.

Download the fillable PDF affidavit of execution that applies to you. Fill it out, then print it. Use **version 2 of the affidavit** if you signed the will by making your mark and/or if you could not read the will and it was read out loud to you before you signed it. Otherwise, use **version 1**.

Arrange for one of your witnesses to swear the affidavit of execution in front of a lawyer, notary or commissioner of oaths. The witness who is swearing the affidavit must not sign it until they are in front of a lawyer, notary or commissioner of oaths. This should be done in person. This can be done at any time after you and your witnesses sign your will. But it is best to do it right away because witnesses might move away or die before you after the will is signed.

Lawyers, notaries and some commissioner of oaths will generally charge a fee for this service in the range of $40 to $75. You can call law firms near you to make an appointment for the witness and to find out the cost. If you cannot pay a lawyer, notary or commissioner of oaths, you can try **Nova Scotia Legal Aid**.

Once the affidavit of execution is complete, keep it with your will. After you die, your executor will use the affidavit at the **Probate Court** to show that the will was properly signed and witnessed. If no affidavit of execution has been done before you die, your executor must find one of your witnesses and have the witness swear an affidavit then. There will most likely be added costs, and this will take extra time.



TIP: If your will has been properly signed, dated, and witnessed - it is valid. You will need an affidavit of execution, or something similar, if your estate will be probated.

What to Do After You Sign Your Will

- ❑ Keep your will and the affidavit of execution where they will not be damaged by things like pets, mould, a fire, or flooding. A safe place to store your will is a fire-proof metal box like a filing cabinet or cash box.
- ❑ Tell your executor exactly where your will is. Only an original will is valid in Nova Scotia and in most other places, so it is very important for your executor to have the original will when you die.
- ❑ Keep an up-to-date, detailed record of your assets (including accounts, insurance policies, investments) and debts. Keep this information with your will or where your executor can find it easily.
- ❑ Keep an up-to-date, detailed list with the contact information for all the beneficiaries you have named in your will, especially if the primary or backup executor you name does not know everyone personally. Keep this information with your will or where your executor can find it easily.
- ❑ Look at your will every few years or any time you have a major event in your life, like a marriage, new common-law relationship, separation, divorce, the birth of a child, a move outside Nova Scotia, or the death of a beneficiary. Make a new will if you need to change anything.
- ❑ If you have minor children, **see a lawyer** to make your Child Guardian Appointment, or use the free, basic **Child Guardian Appointment form from the Legal Information Society's website** at **www.legalinfo.org** to name a guardian(s) for your minor child or children.
- ❑ Regularly review any property you own jointly with someone else, and assets with a named beneficiary, such as pension plans, life insurance, RRSPs, RRIFs, and TFSA, to make sure they still do what you want them to.

If you decide that you want to change your will, you can cancel (revoke) it by destroying it or by making a new will. If you make a new will, destroy the old one so there is no confusion about which version should be used. *See 'Cancelling your will' in the Guide to Making Your Will for more information.*

Keep a current list of your personal electronic and digital assets. Examples are your email accounts, digital music and photographs, and social media accounts. Tell your executor what you want to happen with those assets.

This publication explains the law in a general way as it applies in Nova Scotia, Canada. The information is not legal advice. If you have a legal problem, contact a lawyer for advice about what steps you should take in your situation. *We thank the Law Foundation of Nova Scotia, the Department of Justice Canada, and the Nova Scotia Department of Justice for providing core funding for our services.*

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