

What is a will?

A will is a legal document that sets out who you want to inherit your **estate** (your money, possessions and property) when you die.

To be valid in South Australia, your will:

- must be **in writing**
- must be **signed** by you and **witnessed** by 2 adults (ideally 2 adults who are not named in your will, to avoid suggestions of a conflict of interest)
- must name **beneficiaries** who will inherit your property
- should name an **executor** – a representative who will carry out your wishes.

A will comes into effect after you have died.

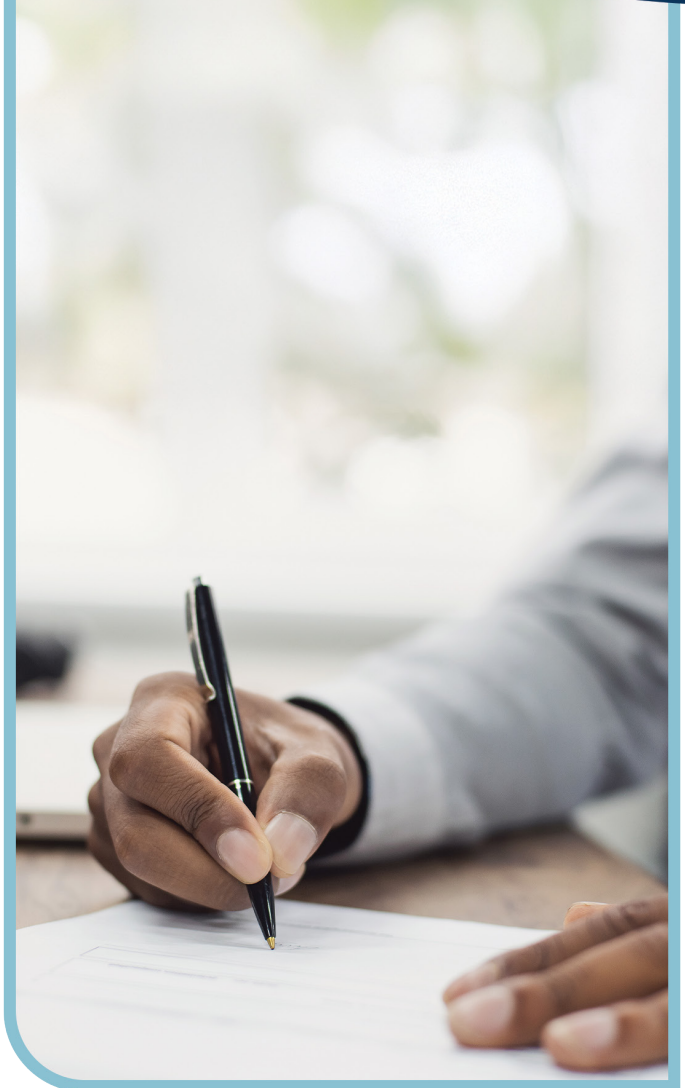
Who can make a will?

You can make a will if you are at least **18 years of age** and you have **legal capacity**. A person younger than 18 may make a will if they are or have been married or with the permission of the Supreme Court.

Legal capacity means that you understand the nature and effect of making a will and can communicate your wishes.

No one can make a will for or on behalf of someone else. This includes a parent of a child under 18 or an adult child with disability, and a person acting on someone else's behalf under a court or tribunal order or power of attorney.

If you do not have legal capacity, the Supreme Court may make a will on your behalf in terms that reflect your likely wishes if you had capacity.



How is a will different from...?

A power of attorney

A power of attorney appoints one or more persons to manage your **legal** and **financial** affairs while you are alive.

A **general** power of attorney allows someone to act immediately, usually for a certain period (such as while you are overseas). A general power of attorney ends if you lose legal capacity.

An **enduring** power of attorney can take effect immediately or only during periods when you do not have legal capacity (for example, after a stroke).

A power of attorney has no effect after you have died.

To learn more about powers of attorney and how to make one, see our [Enduring Power of Attorney kit](#) (download free from www.lsc.sa.gov.au or buy a hard copy from Service SA) or call 1300 366 424.

An advance care directive

An advance care directive allows you to set out your wishes for future **health care**, **living arrangements**, and **end of life preferences**. You can also appoint one or more persons to make medical decisions for you if you lose legal capacity.

An advance care directive only has force during periods when you do not have legal capacity. It has no effect after you have died.

To learn more about advance care directives and how to make one, call 1300 366 424 or visit www.advancecaredirectives.sa.gov.au.

DID YOU KNOW?

A power of attorney and an advance care directive are often referred to together as a **living will**.

We recommend you have all 3 documents – a power of attorney, an advance care directive and a will – to safeguard your future and ensure your wishes are respected throughout your life and after you die.