

# The new Succession Act

On 1 January 2025, wills and estates law in South Australia changed.

The **Succession Act 2023** replaced 3 separate laws that previously set out

- how to make a valid will
- how an estate is distributed after death, with or without a will
- how a relative of a person who has died may seek part of an estate where they believe they will not be properly provided for.

The Succession Act aims to modernise and improve the law. Many changes are based on recommendations from independent reviews conducted by the [South Australian Law Reform Institute](#).

Importantly, much of the law has not changed. If you already have a valid will, you do not need to make a new one under the new law.

It is a good idea to review your will every few years to check it still meets your needs. See [📖 I have a will. Now what?](#) for more information.

## Key changes

### New right to inspect a will

Until 1 January 2025, there was no legal right to see the will of a person who had died until after the grant of probate. The Succession Act creates a **new right to inspect the will of a deceased person**, given to those with a proper interest in the will.

See [📖 Who can view my will?](#) to learn more.

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## Changes to claims for family provision

There are significant changes to the **circumstances** in which certain **categories** of persons may apply to the Supreme Court for family provision. The circumstances in which a stepchild may seek provision have **broadened**, while new **restrictions** apply to former spouses and partners, grandchildren, siblings and parents seeking a portion, or a greater portion, of a deceased's estate.

The law now includes a **list of factors** the Supreme Court must consider when deciding whether to make a family provision order. This list makes it clear that the **wishes of the deceased person** are the **most important factor**.

See [📖 Who can contest my will?](#) for more information about family provision claims.

## More distant relatives may inherit

A further degree of relatives may inherit the estate of someone who has died without a valid will: **children of first cousins**. This will only occur where a deceased person had no living partner, children, parents, siblings or other close family at the time of their death.

This change is in response to feedback that people usually prefer their estate to go to distant relatives rather than to the Government.

## Changes affecting executors and administrators

The Supreme Court has been given new powers to **hold executors and administrators to account** in relation to the administration of estates.

This includes

- the power to make an executor or administrator give an **undertaking** (promise) to the Court
- the power to make an executor or administrator who has failed to perform their duties pay money to **compensate** someone who has suffered loss as a result.

## Other key changes

The payment made to a **surviving spouse** or **partner** of a person who has died **intestate** (without a valid will) has increased from \$100,000 to \$120,000. This applies to anyone who dies intestate on or after 1 January 2025.

The law now makes it clear that a **separated spouse** or **partner** of a deceased person is **not** entitled to the deceased's estate if a valid financial agreement (within the meaning of the Family Law Act 1975), entered into on or after 1 January 2025, was in force between them just before the deceased's death.

A person or entity (such as a bank) who holds up to **\$15,000** in cash or personal property for a deceased person may now **pay it directly** to their surviving spouse, partner or child **without a grant of probate** or administration. This is intended to allow the transfer of small amounts to immediate family quicker than it may take following a grant of probate.

The law now clarifies that when 2 people die and it is not clear who died first, the younger of the 2 is taken to have outlived the elder by 1 day.

The law now states that when 2 people die together who jointly own property, they will be taken to have owned property as tenants in common. This means that their share in the property will pass to those entitled to inherit, rather than to the younger of the 2.

The Succession Act applies to all new and existing wills in South Australia and all Supreme Court estate matters from 1 January 2025.

Supreme Court proceedings that started before 1 January 2025 will continue under the previous law.

If you have any questions or concerns about how these changes affect you, contact the lawyer who prepared your will, or **call our legal helpline** on **1300 366 424** during business hours for free information and advice.