The Québec Will Kit

2019 Edition

Legal Will Kit

For the Province of Québec

Step-by-step Guide for completing your Will using The Québec Will Kit

Read the Guide

Read this guide first to familiarize yourself with the Québec Civil Code

Complete your forms

Complete the accompanying forms, making key appointments and describing the distribution of your things.

Sign with witnesses

Sign in the presence of two witnesses. The document becomes your legal Last Will and Testament.

Important

Please read carefully

The use of this kit is not a substitute for seeking legal advice. The purpose of this kit is to help you prepare your own Will. If you require legal advice or information, you should obtain such legal advice or information from a qualified professional.

In addition, the successful execution of this kit requires accurate information to be provided by you and/or appropriate actions to be taken by you as described in the kit. The publishers of this kit cannot ensure that this information will be accurate or that these actions will be taken appropriately. Although the information in the kit can be used to help in the creation of legally binding documents, we cannot guarantee that using the kit will result in the creation of legally binding documents and individual circumstances vary. As a result, the publishers of this kit do not make any guarantees about the use to which the kit is put, or the results of that use. If you have any doubts as to the validity or legal standing of documents created using the content of this kit, we recommend that you consult a qualified professional.

Any documents that you create using this kit are yours and it is your responsibility to ensure that they reflect your intentions. If you require a legal opinion about the effect of the documents or their legal interpretation, you must have your documents reviewed by a lawyer or notary in your area who specializes in Wills and Succession Planning.

As far as the law allows, all people connected with the writing, editing and publishing of this kit disclaim all liability arising from the negligence of the writer, editor or publisher of this kit.

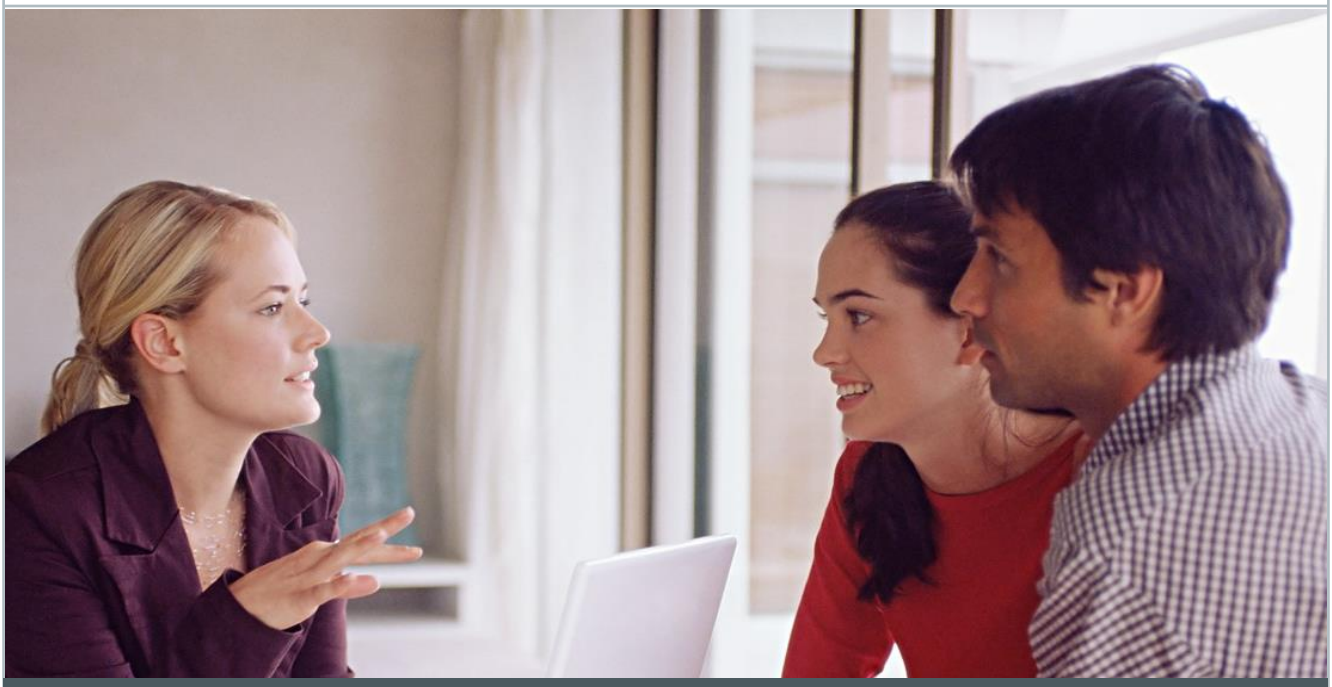


Table of Contents

Introduction 4
The Québec Civil Code 5
What is a Will 6
- The Will 6
- Do I need a Will? 6
- When does a Will take effect 8
- Do I need a lawyer or notary? 8
- Changes in Relationships 8
- Where should I store my Will? 8
- When to update the Will 9
- How to revoke a Will 9

Preparing the Will 10
- Essentials of a Will 10
- Joint Wills 10

The Liquidator 11
- How to choose the Liquidator 11
- Can the liquidator be a legatee 11
- Should I name an Alternate 11

Organ and Body donations 12
Funeral directions 12
Other parts of the Will 13
- Gifts of Personal Effects 13
- Making Alternate Provisions 13
- Residue Clause 14
- Alternate Residue 14
- Legatees 14
- Leaving property to Children 15
- Conditional Legacies 15

Disinheriting 16
Tutors for Children 16
Instructions for Completing your Will 17
Signing and Witnessing the Will 20
Affidavit 21
How to make changes to your Will 21
What is Probate 22
Glossary of Legal Terms 23

Introduction

Everybody should have a Will. Not making a Will is unfair to those you leave behind. Even if your plans for succession are simple and you do not have many assets, it is still much easier for the people that you leave behind to work with a Will than to resolve the succession of a person who has died "intestate" (without a Will).

By Québec law, any competent adult can make his or her own legal Will. The law does not require you to have a lawyer or notary to do this.

A Will does not need to be a complicated document; it simply has to clearly state your wishes for the distribution of your succession.

Three types of will are recognized under Québec law:

1) Notarial Will: Made before a notary and at least one witness. This type of will is governed by strict formal requirements executed before a notary acting in his or her capacity as a public officer. As a result, it is usually of high quality and very difficult to contest. It is exempted from the formalities of probate. However it can be expensive and inconvenient to arrange an appointment with a Notary. It is also more difficult to keep updated when changes are required.

2) Holograph Will: Handwritten entirely by the testator and signed by them, with no other formal requirements. However, the will must extremely clear and unambiguous, and the interpretation of the instructions in the Will are made by a judge during the probate of the will. This type of Will typically costs nothing, but they frequently contain errors or omit critical clauses.

3) Will Made in the Presence of Witnesses: sometimes called a "Will following the form derived from the laws of England". It must be signed by the testator before a minimum of two witnesses of full legal age, who must also sign the will. It is not required that the will be written by the testator; it can be drafted by another person. To be legally valid the testator must declare in the presence of the witnesses that the document effectively constitutes his or her will.

This kit will allow you to create the third type: a "Will made in the presence of witnesses".

Make sure that before you start writing your Will, you read this accompanying booklet in full. If you make a mistake on your final document, you cannot cross it out; you must start again (otherwise it may look as if the final document has been tampered with). To use this kit, you must be able to read and understand its contents. You must not have the contents read aloud to you or translated for you.

Note that this kit is not appropriate for people with complex situations, including, but not limited to, the following:

If you are involved in a matrimonial dispute, or wish to disinherit your dependents

If you have a history of mental illness, or the question of your mental capacity may be raised in objection to the statements in the Will

You are deaf, mute, blind, unable to read (illiterate) or unable to sign. In all of these cases, the Civil Code of Québec provides particular forms that must be respected.

If you own personal property or real estate in multiple countries

If you are under the age of 18

If you have complicated business investments (e.g. you are a part owner of property or businesses where ownership may be challenged)

If you are about to be married and are preparing a Will in contemplation of that marriage

If you have a large, complex estate and feel that you would benefit from some advice on succession planning and tax reduction

If you own a farm, as there may be significant succession planning implications

If you need to provide for long term medical care for a dependent

If you have any litigation pending which involves large sums of money or where a prison term is possible

If you think that somebody may challenge your Will in court or you have any other doubts about your situation

If you are a resident of any Province other than the Province of Québec (Canada)

The Québec Civil Code

The requirements for a legal Will are set out by the Québec Civil Code. The law states that for a Will made in the presence of witnesses is written by the testator or by a third person. The testator then declares in the presence of two witnesses of full age that the document is his or her will. The testator need not divulge its contents. The testator signs it at the end or, if they have already signed it, acknowledges their signature; the testator may also cause a third person to sign it for him or her in their presence and according to their instructions. The witnesses sign the will forthwith in the presence of the testator. The testator and the witnesses should also initial or sign each page.

What is a Will?

The Will

A Will (or Last Will and Testament) is a legal document prepared during your lifetime, which describes how your money, property and other assets are to be distributed when you die. A Will can also include provisions for setting up “trusts” for children (money they receive later based on their age) and name a Tutor for those children (who you wish to take care of them after you pass away).

A Will does not have to follow any special structure to be a legal document and no special legal words are required. As long as you clearly state your instructions and sign the document appropriately, then it will serve as a legal Will. Standard legal clauses are often used in a Will, because they are known to work and not be open to misinterpretation.

A Will should not be confused with a “Living Will”, which is an entirely different type of document. A Living Will is in effect while you are still alive. It describes your wishes for health care should you end up in a terminal condition or you are unable to speak for yourself.

Do I need a Will?

Here are a few common reasons that people claim when justifying why there is no point in writing a Will:

"I don't really care who gets my things. I'll be gone anyway." Without a Will, your property may not go to the people that you wish to benefit. In Québec, there is a law that decides how property should be distributed if a person dies “intestate” (without a Will).

The actual administration of your succession will also be complicated and difficult. The courts will usually decide who will act as a personal representative or “Liquidator” (formerly called the “testamentary executor”), for distributing your possessions and the courts will determine who will get what. This may lead to acrimonious legal disputes between your survivors.

Note that if you have no heirs, all of your assets, property and possessions can pass to your local government. The effort required to draft your Will is insignificant compared to the difficulties that dying without a Will presents to your survivors.

"It's obvious who will get everything. It will go to my spouse." Québec intestate law will determine who will receive your possessions, which may or may not reflect your intentions. If you die without a Will and you are married, your assets will not automatically go to your surviving spouse. Québec succession law may determine that others, including children, may be entitled to a share. The table below shows how your succession would most likely be divided if you do not have a Will.

Relationship with the deceased				
Children or their representatives	Surviving spouse	Father, mother or one of the two	Brothers, sisters or their representatives	Nieces and nephews
All				
2/3	1/3			
	All			
	2/3	1/3		
	2/3		1/3	
		All		
		1/2	1/2	
			All	
	2/3			1/3
		1/2		1/2
				All

Color Key

These relatives exist; they are the successors and are entitled to the specified portion of the succession.
These relatives do not exist, and the other successors are entitled to a larger portion.
These relatives are excluded from the succession because other, closer relatives exist.

"I don't have a succession of any value." Even if you don't believe that you have a succession of any value, your death itself may generate a sizeable benefit. For example, your legatees (people receiving part of your legacy) may be entitled to the proceeds of a life insurance claim, a wrongful death suit, or a claim in the event of some negligence resulting in your death. These can be significant sums of money.

Quite clearly, there is never a situation where a Will is unnecessary. You should draft a Will while you are still young and healthy, even if you don't feel that your assets are substantial. There is absolutely no benefit to waiting until you are older.

Whatever your reason may be, you should know that it is extremely important that you have an up to date Will.

To die without a Will is irresponsible and places a tremendous burden on your survivors. Do not put it off any longer.

When does a Will take effect?

A Will only comes into effect at the moment of death.

You are free to do anything with your assets all the time that you are alive even if you have included those assets in your Will.

For example, if you plan to leave your Ford truck to your brother, and then subsequently sell the truck, your brother will get nothing (the bequest is said to be "adeemed"). However, if you sell that truck and buy a new Ford truck, then the new truck would go to your brother, as long as it fitted the description in the Will (you have "restored the adeemed property").

Do I need a lawyer or notary?

There is no legal requirement to have a lawyer or notary prepare your Will. In many cases, there is no practical need for a lawyer or notary to be involved in the preparation of your Will, particularly if your family situation and plans for succession distribution are straightforward. However, if you belong to any of the groups described in the introduction to this kit, you should seriously consider consulting with a legal professional.

Changes in relationships

In Québec marriage does not automatically revoke (cancel a Will), however, divorce causes the sections of the Will relating to your ex- spouse to be ignored. In other words, it is read as if your ex- spouse never existed.

Separation does not revoke a Will. It is very important to update your Will every time there is a change to your marital status.

Common-law partners do not have the same claims on property as married partners.

Where should I store my Will?

After your Will is signed, you must keep the original and all copies in a safe place and let your Liquidator know where the original is stored. It is very important for your Liquidator to be able to find your Will at the appropriate time.

Although the document must be kept safe, it should not be inaccessible. If you choose to store it in a safety deposit box, make sure that your Liquidator will be able to gain access at the appropriate time.

When to update the Will

Throughout your life, you are free to update your Will as often as you like, either by making an amendment, or by drafting a new Will. An amendment to an existing will is called a modification or "codicil" and must follow the same form and structure of a full Will (i.e. it must be properly signed and witnessed). Consequently, writing a modification is not usually much of a shortcut. In fact, it can lead to significant confusion.

It is strongly recommended that if you wish to make changes to your Will, that you create a new Will, and revoke and destroy all previous Wills. **Never make handwritten amendments to your printed Will.**

Not updating a Will can be as bad as not having a Will at all. Even if you feel that there have not been many changes in your life, your Will should be reviewed every year on a routine basis.

Beyond the routine reviews of your Will, you should consider updating your Will in the following circumstances:

- If somebody named in your Will dies
- If a major asset is purchased or sold
- If you remarry, separate, divorce or cohabit
- If you move to a new Province/Territory or country
- If your Liquidator or alternate Liquidator no longer wishes to serve
- If any new children are born, adopted, or pass away
- If any person named in your Will becomes seriously ill
- If your children turn 18 years of age
- If you wish to change some legatees (people receiving part of your legacy)
- If you wish to redistribute your property in a different way

How to revoke (cancel) a Will

A Will is revoked automatically under certain circumstances, including:

- • If you create a new Will that specifically revokes previous Wills
- • If you destroy your Will with the intent of revoking it

Divorce or the dissolution of a civil union does not revoke a Will; it only cancels the portions of the Will related to your ex-spouse.

Preparing the Will

Essentials of a Will

The Will has the following structure:

- It identifies the person making the Will (you), otherwise known as the "testator".
- It describes your marital or "civil status"
- It revokes (cancels) all previous Wills, to make it clear that this Will replaces any earlier Wills you may have made.
- It names the person responsible for carrying out the instructions in the Will, called the "Liquidator", also sometimes called an "estate Executor" or "Trustee"
- It instructs the Liquidator to pay all valid debts, expenses, claims and taxes.
- It tells the Liquidator to give your legatees whatever is left in the succession after the debts, expenses, claims and taxes have been paid.
- It gives the Liquidator certain legal and financial powers to manage your succession, including power to keep or sell property in the succession, to invest cash, and to borrow money.
- It names one or more people who should take custody of any minor children. This person is called the "Tutor" or "Guardian".

Joint Wills

A joint Will is a single document, signed by "co-testators" (usually spouses), intended to reflect the wishes of both parties. This is generally considered to be an extremely bad idea, and probably worse than having no Will at all. Often, the intent of a joint Will is to declare that each person would leave everything to the surviving partner, and in the event that both partners are victims of a common disaster, everything would go to their children. The problem is that it is unclear whether a surviving partner can revoke a joint Will and many messy legal cases have arisen as a result of this confusion.

In short, do not make a joint Will, as there could be problems if either party changes their mind or wishes to amend the Will. There may also be problems if the surviving spouse tries to make any changes to a joint Will, as they may be bound to the original terms. Furthermore, there is no reason to create a joint Will, as there is no disadvantage to drawing up a separate Will for each partner.

The Liquidator

How to choose a Liquidator or "Trustee"

The Liquidator will use your Will to speak on your behalf as if you were alive. This is a responsibility that you would not want to give to just anyone.

Typically, your Liquidator will be a family member or close friend. Most commonly, it is a spouse or a child. Most importantly, the Liquidator must be a person whom you trust completely. If you do not know anybody who has all of the required qualities, then an independent professional will do the job for a fee.

Do not choose somebody who is too old, unstable or ill, nor should you appoint a minor, an incompetent person or a convicted criminal.

Select a person who is diligent and acts with integrity. Otherwise, they may fail to follow appropriate accounting practices. For example, they might not file accurate tax returns, might fail to pay off debts, or might make poor investment decisions. A poor Liquidator might not distribute your property in a timely manner or according to your wishes. In extreme circumstances, the Liquidator might actually embezzle funds for themselves or to benefit favoured legatees.

Can the Liquidator also receive something in my Will?

Yes. Your Liquidator has a legal responsibility to treat all legatees fairly under the directions given in your Will. There is nothing preventing your Liquidator from being a legatee of your succession, unless there is a danger that they may not treat all legatees equally.

In fact, for a simple distribution of the succession, where most of the succession is passing to a single legatee, it is common for that legatee to also be named as the Liquidator of the Will. For people who are married, the first choice Liquidator is often chosen to be their spouse.

Why should I name an alternate Liquidator?

You should name an alternate Liquidator in case any of your first choice Liquidators cannot, or do not want to serve. If you have named more than one Liquidator, your alternate will replace the Liquidator who cannot serve. If you have only named one Liquidator, then the alternate will simply replace them as the sole Liquidator.

If you do not name an alternate Liquidator and your first choice Liquidator cannot serve, then a person will be appointed by the courts to distribute your succession.

Organ and body donations

You may wish to donate your body or organs after you have died. However, these instructions should not be written into your Will. Feel free to write and sign a separate document that expresses your wishes for organ and body donation and keep these instructions with your Will, but do not attach them to your Will or include the instructions in the content of your Will. They are not legally binding instructions and are not by law regarded in the same way as your wishes for the distribution of your succession.

Your funeral directions

It is not a good idea to include funeral instructions in your Will. Usually, your funeral will happen within a few days of your death, and possibly even before your Will has been located and reviewed.

You can write out your funeral wishes as a separate document, sign this document, and keep it with your Will, but do not attach it to your Will.

Other parts of the Will

Gifts of personal and household effects

For each item that you are leaving to a specific legatee, you should provide an accurate description. This item might be a specific item of jewellery, or a house, or a sum of money. It doesn't really matter what it is, just that it must be very clearly identified and it must be your property.

The next step is to name the Legatee. Make sure that the name you provide uniquely identifies the individual (not just “John” or “my cousin”). You should also include the legatee’s address.

Don't be intimidated by this section --- as long as you clearly state your intentions, your wishes will be enforced. Even if you name a person, and they subsequently change their name, as long as they are identifiable as your intended legatee and everybody knows to whom you are referring, then you do not need to update your Will.

You must be completely explicit in your wording. A phrase like “divide everything equally between my cousins and my friend Bill” has at least five different interpretations.

For each item, you should name an alternate legatee in the event that your first choice legatee does not survive you. You do not need to name an alternate, but it is usually a good idea. If you do not have an alternate, and your first choice legatee cannot receive the bequest, then the property will go to your “residual” legatee, described later in this guide.

Making alternate provisions

For every bequest made in a Will, it is important to include an “alternate provision”. The purpose is to explain what will happen if your first intention cannot be fulfilled for whatever reason. For example, if you state in your Will that your cottage should go to your daughter, you should make an alternate provision just in case your daughter pre-deceases you, or you are both involved in the same accident.

Residue clause

It is very important for you to include in your Will a plan for your entire succession. Your Liquidator needs to know your intentions for all of your possessions, and you have to assume that your first intention cannot always be fulfilled.

In order to catch all of the assets that cannot be distributed according to your wishes, every Will must have a "Residue" clause. This clause is written by you, and specifies how you wish to distribute the "residual" or remainder of your legacy.

If any of your legatees pre-decease you (and no alternate is named or available) then the possessions they would have received will become part of your residual legacy. Furthermore, any items that you have not explicitly named in your Will also become part of your residual legacy.

In many cases, the residual legatee will be the main legatee of the succession, for example, if you leave your car to your son, and "everything else" to your spouse, then your spouse will be the main legatee and also the residual legatee.

Alternate Residue clause

It is always a good idea to make sure that all eventualities are accounted for in your Will. This clause allows you to make provisions in case your residue clause cannot be fulfilled.

In this section, you have an opportunity to express what will happen if any part of your residual plan cannot be done; for example, if one of your residual legatees pre-deceases you.

Legatees

Legatees are the individuals that you name in your Will to receive a share of your succession, including any specific possessions.

When you name them in your Will, it is important to identify them so that your intentions cannot be misinterpreted. You should include their full name and full address so that your Liquidator can clearly identify them. If the legatee predeceases you (dies before you), the item will go to the alternate legatee, if you have specified one, or to the residual legatee.

Leaving property to children

By law, you cannot leave cash or property directly to a minor. You must leave the bequest "in trust", and a trust will be set up for the benefit of the minor. You can also set up this type of property management for any other legatee who is still young and may not be mature enough to accept a large bequest.

A "trust" is a legal arrangement in which you pass the ownership of property to a "trustee" who will manage that property for the benefit of another person or organization (the "legatee"). The trustee is the "legal owner" of the property, but the legatee is regarded as the "beneficial owner" of the property.

The key concept of a trust is that the legatee cannot access any of the property, other than what is distributed by the trustee.

When including a trust as part of your Will, you are creating a "testamentary trust", as it will only come into effect after your death.

Conditions in legacees

The testator cannot, in a will, impose conditions that do not comply with the law. For example, you could not leave all your assets (or make a particular legacy) to your spouse provided that he/she never marries again. The statement would be read as if no condition applied; the legacy would be valid without the condition.

Disinheriting

Québec law has a principle of the "freedom to test"; a person's right to make a will so as to dispose of their possessions however they wish. This freedom was initially absolute, but in 1994 there were some updates to the law that introduced some restriction to this principle. A person may still dispose of their possessions as they desire, but the law now provides a protection for the surviving spouse as well as the children, through the institution of the family patrimony and through the survival of the "obligation to provide support".

Because an obligation to provide support survives the death of the provider, the person to whom it is owed may claim it from the succession. The following persons may claim support: a spouse, an ex-spouse, as well as the mother, father, and children of the deceased. Any sums granted as support are deducted from the succession before it is divided between legatees. However there are limits to the amounts that may be received from the succession as support. For example, a former-spouse who was receiving child support payments at the time of death could be granted 12 months of payments.

Although you must, by law, provide for dependents including a spouse and minor children, you are still free to leave out other people who may expect to receive something. These people include friends, relatives, and adult children, as long as you are not currently providing for them.

In many cases it is a good idea to explain exactly why you are not including them in the distribution of your succession (e.g. you already gave them a loan, you disapprove of some of their actions or beliefs, they are independently wealthy, etc.). If you do not explain why they have been disinherited, they may make a claim against your Will on the basis of you not being of sound mind at the time of writing.

Tutors for children

A Tutor or "personal guardian" will take legal responsibility for minors in the event of the death of the parents. When you appoint a Tutor in your Will, you are expressing your preference for who you would like to raise your children.

This may be an emotional decision, but it is very important to cover this possibility, even if there are currently two living parents. It is not uncommon for both parents to be lost due to a common disaster. If you are the sole custodial parent, it is absolutely vital that you state clearly who you would like to take responsibility for your children should you die.

Instructions for Completing Your Will

This section explains each clause in the Will and provides you with instructions for that specific clause. Before starting, write down on a separate piece of paper all of your assets and then list all of the people you wish to benefit from your succession. Then decide exactly which parts of your legacy should go to which individual.

The accompanying form is made up of two parts. The first half of the form is where you enter your information by answering a series of questions. The information that you provide will be entered into the second half of the form, which is your final Will. The second half of the form should be printed, signed and witnessed to create your legal Last Will and Testament.

The form starts with identifying the "testator" (you). You should include your full legal name and address.

1. IDENTIFICATION

The first clause of the Will identifies the Testator (the person making the Will). Enter your First and Last Name, your permanent street address and the name of the City in which you are living. Enter your date of birth.

2. CIVIL STATUS

There are seven options available to you in a drop down list. Please select the option that reflects your situation

3. REVOCATION

This clause of the Will "revokes" (cancels) all previous Wills or "codicils" (amendments to Wills).

4. DISTRIBUTION OF YOUR LEGACY

There are eight different options available to you which may seem confusing at first, but you should firstly consider how you wish your legacy to be distributed and then see which of the eight options applies to your situation.

You may leave all your assets to one or several individuals without describing your or, you may leave specified assets to particular individuals by describing these possessions,

Your selection in this table will determine the flow of the remainder of the form. It will change depending on whether you have single legatees or multiple legatees sharing parts of your legacy.

If you choose to leave specific items to individual legatees, you can list these within the form. The options that we provide for you are;

Cash legacy
Bank accounts
Principle Residence
Secondary Residence
Revenue Property
Shares in companies
Other Specific Assets

When you complete the form, please make sure that the appropriate checkbox is selected before describing the item and the legatee.

Now that you have described your specific legacies you will need to describe a residual universal legacy. If you have made a particular legacy, this clause must be included.

5. LIQUIDATORS

This paragraph appoints your Liquidator (formerly known as an "executor" or "trustee"). This person will be responsible for gathering your assets and distributing your possessions according to your wishes. A more complete list of their responsibilities is included later in this guide. You can name one or multiple Liquidators. Many people name their spouse and an alternate in case their spouse predeceases them (dies before them) or is involved in a common accident.

6. COMPENSATION FOR THE LIQUIDATOR

Liquidators have a right to be paid for the hours of work that they invest in the liquidation of an estate. However, liquidators who are also heirs cannot be paid unless the will says they can be paid or the other heirs agree. If the heirs cannot reach a decision, a court will decide.

Our template allows you to choose to pay your liquidator if you wish to. You can either compensate them a fix amount or a payment schedule depending on how long the succession takes to complete.

7. POWERS AND OBLIGATIONS OF THE LIQUIDATOR

The next section of the Will includes a series of standard clauses that outline the powers granted to the Liquidator and also their responsibilities. These are considered standard clauses that should be included in any well drafted Will.

8. PAYMENTS FOR MINORS

If you have minor children, this clause allows the Liquidator/Trustee to hold any bequests (gifts) made to the child until they reach the age that you specify, at which time they can receive the bequests. In the meantime, the Liquidator can use the funds for the benefit of that child (for things like health care and education), at the discretion of the Liquidator.

There are two separate clauses for these payments; the first deals with the revenue from the Trust, the second deals with the balance of funds in the trust.

9. NOMINATION OF TUTOR

This clause allows you to name a Tutor for your minor children. The person named in this clause will have the responsibility for the care and raising of the child, however, it does not include responsibility for their finances, which are looked after by the Trustee/Liquidator. The clause grants the power to the Liquidator to release funds for the care of the children.

10. ADDITIONAL CLAUSES

After you have answered all of the questions in the form, the final document will append some additional clauses.

One of the liquidator's duties is to make an inventory of the property of the succession. The liquidator must then register a notice of closure of inventory in the Registre des droits personnels et réels mobiliers. The liquidator must also inform the legatees and the creditors of the registration of the notice of closure of inventory.

The liquidator must then have a notice of closure of inventory published in a daily or weekly newspaper distributed in the locality where the deceased's last principal residence was located.

Signing and Witnessing the Will

In order to make the Will a legal document, you should first print it and read it thoroughly. Make sure that it accurately reflects your wishes and that you understand everything that is contained in the document.

Only the second half of the form needs to be printed. These pages will be your official Will starting at page 1 of x.

Once you are happy that it reflects your wishes, you must sign your Will in the presence of at least two witnesses, and the two witnesses must also sign the Will, in the presence of the "testator" (yourself) and in the presence of each other. You and the witnesses should also initial each page, so that it is not possible to alter any pages after the Will has been signed.

IMPORTANT

A witness cannot be a legatee in your Will, they cannot be the spouse of a legatee (at the time of signing), they cannot be a minor, and, like the "testator" (you), they must be of sound mind.

For the signing procedure, gather the witnesses together in a room. You should make a formal statement that you have gathered them to witness the signing of your Will. They do not have to read the Will or know its contents. They are only required to witness your signature.

You should initial each page in turn, in the bottom right corner of each page, and then sign your name in full on the last page, in full view of the witnesses.

Each witness then in turn initials each page, in the bottom right corner of each page, and signs the last page. Everybody must stay present until all of the signing is complete. Each witness should print their name, address, occupation, and then add the date.

There should only be one original of the Will for everyone to sign. Copies can be created by photocopy. It is therefore a good idea to sign the original in blue ink, so that it is easily distinguishable from the photocopies. Do not sign the photocopies, as this will create duplicate originals, which can be difficult to administer.

Affidavit

Although it is optional, an affidavit can make it easier to get probate. An affidavit, whether signed now or at the testator's death, will have to accompany the demand for probate.

An affidavit is a signed legal document in which the signatory swears to the truth of that information. The appropriate affidavit is enclosed in this document. Complete this form and have a witness swear to the truth of its contents in the presence of a lawyer, a notary or a "commissioner of oaths" (in French: "*commissaire à l'assermentation*"). The oath taking is generally free of charge.

How to make changes to your Will

If you wish to make minor changes to your Will, you can do this by using a modification or "Codicil". A modification is an amendment to the Will stating that certain provisions of the Will are to be revoked, and may include new provisions to replace the provisions in the original document. A modification must follow the same signing and execution procedures, requiring two witnesses, and must be attached to the original Will. **You should not make any changes to the Will by writing on the original document.**

Note that adding a modification to a Will can make the original document complicated, in which case it is often better to create a new Will.

Glossary of Legal Terms

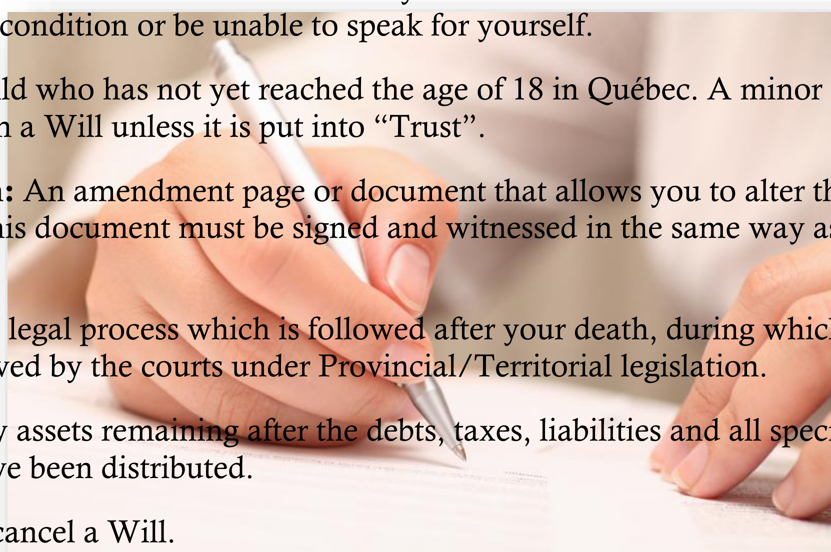
Intestate: The term used to describe a person who dies without a valid Will. If this happens, the courts will decide how the person's succession will be distributed.

Legacy: A gift of money or other property identified within a Will or trust. Any item that you leave to another person is a "bequest" and the person receiving this item is called a "legatee".

Legatee: A person or organization that receives something from your Will.

Liquidator: Otherwise known as an "Executor" or "Trustee", this is the person named in your Will who takes responsibility for gathering up the contents of your succession and distributing it according to the directions in your Will.

Living Will: A document which describes your wishes for health care should you end up in a terminal condition or be unable to speak for yourself.



Minor: A child who has not yet reached the age of 18 in Québec. A minor cannot inherit anything from a Will unless it is put into "Trust".

Modification: An amendment page or document that allows you to alter the contents of your Will. This document must be signed and witnessed in the same way as the original Will.

Probate: The legal process which is followed after your death, during which your Will is legally approved by the courts under Provincial/Territorial legislation.

Residue: Any assets remaining after the debts, taxes, liabilities and all specific bequests in your Will have been distributed.

Revoke: To cancel a Will.

Succession: All of your property, possessions, money, and other assets that you leave behind after you pass away. Everything that you own becomes your "succession", which is then distributed according to the directions written in your Will.

Testator: The person making the Will.

Trust: Funds which are left to people who are not able to receive the funds directly. They are administered by the Liquidator or Trustee until the Trust expires.

What is Probate?

Probate is the legal process which is followed after your death, during which your Will is legally approved by the courts. It also refers to the required documentation and includes the legal confirmation of the appointment of the Liquidator.

The Liquidator must begin with a "kind of" request called a "motion", usually filed with the Superior Court at the courthouse in the region where the deceased lived. Some people have a notary or lawyer prepare the motion, while others prefer to write and present it in court themselves. It takes several weeks to obtain a probate judgment. The Liquidator must pay court costs, in addition to professional fees if they have a lawyer or notary prepare the motion.

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If you require assistance:

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