



# WHAT IS A WILL AND HOW DO I MAKE ONE?

A **Will** is a document that leaves instructions about what you want done with your personal possessions and land (your estate) after you die. Dying without a Will is called dying “**intestate**”. If you die intestate (without a Will), the *Indian Act* applies and sets out how your assets will be distributed rather than you or your family deciding.

## How Do I make a Will?

To be valid, a Will must:

- be in writing (you can write your own or use Will forms available from various sources)
- be signed by you;
- state your wishes with respect to disposing of at least one of your assets; and
- state that it takes effect after your death.

## What should be in the Will?

Your Will should provide instructions for the distribution of **all** your land and personal property (ie. money, jewelry, etc.)

## What should I consider when making a Will/What do I need?

- A list of the full names and addresses of your beneficiaries.
- A list of all your assets, real or personal property (these assets may include a commercial licence, crops, animals).
- A list of all your debts and the location of your bank accounts and other assets.
- Directions on the distribution of your assets and a list of special items you wish to give to specific people.
- The name of someone that you want to be your administrator (executor).

## Are there special rules for signing of the Will?

It would be preferable to date your Will and to have someone witness the signing of your Will. Your witness(es) should be an adult(s) who is not mentioned in the Will. The spouse of someone mentioned in your Will should also not be a witness.

## Can a Will be changed or modified?

You can change your Will as often as you like. In fact, it is a good idea to read it over from time to time to make sure it is accurate and up-to-date. You should change your Will if, for example, there is a birth of a child, divorce, change of residence, death of someone mentioned in your Will, or if you have acquired new valuable articles. You should always initial all changes or additions and have them witnessed.

## When should I hire a lawyer (or a notary in the province of Quebec)?

Although legally you do not have to hire a lawyer to write your Will, it may be advisable to hire one in the following circumstances:

- if you have children or you care for someone who has special needs;
- if you have personal or “real” property (land and building) of significant value;
- if you own property off reserve;
- if you own a business.

## Where should I keep my Will?

If you choose to keep your original Will, put it in a safe place such as your safety deposit box, a fireproof box, a home safe or a safe at the band council office. Banks will usually allow your executor to take your Will from the box. You should tell a family member, your executor or someone you trust where your Will is kept so that your final wishes can be carried out.