

The Wills Act, 1996

The Wills Act, 1996 sets out the rules that must be followed to make a will.

In order to be valid, the person making the will must be over the age of 18 years unless they are cohabitating in a spousal relationship or a member of the armed forces in actual service. The will must be in writing and signed by the person making it or by someone else at the person's request. The signature of the person making the will must be witnessed by two people who also sign the will. However, if the will is entirely in the person's handwriting, witnesses are not necessary.

A witness should be someone who is not receiving anything under the will. If the witness or the witness's spouse is a beneficiary; they must prove to the court that they did not pressure the person to make the will or their gift will be void. If a will is not made in accordance with these rules, a court can declare it valid if satisfied that the person meant it to be their will.

A will is revoked:

- If the person makes another will;
- If the person writes another document that states that the will is revoked; or
- If the person destroys the will.

A gift to a spouse in a will is revoked by divorce or termination of a spousal relationship of at least two years unless the will states otherwise. A gift in a will to a person's child, grandchild, brother or sister will go to the spouse or children of that family member if he or she dies before the person who made the will, unless a contrary intention appears in the will.

The Act contains detailed rules about interpreting wills and adopts a convention on the validity of international wills.