

Extra Miscellaneous Will Information

(Optional Reading)

This covers extra miscellaneous information about our Wills.

1. "When I sign my Will, do I need to get the Will notarized or stamped or something like that?"

No, you do not.

As stated, just follow our manual, "Instructions for Signing", exactly. What's in there is enough.

2. "How do I store it?"

You must follow our manual, "Instructions for Storage", which you receive upon payment.

3. "Do I have to file it or register it somewhere?"

No.

Under Canadian law, Wills are not filed or registered anywhere while you are alive. You only need to keep the Will safe with you.

As stated in the "Instructions for Storage" manual, your job is to preserve your original Will throughout the remainder of your entire life and up to your death, after which it must be found by your Executors and submitted to Court.

4. "Okay, and what about once I have died?"

When you have died, your Executors must i) find your Will, and ii) go through the standard process known as probate.

You must retain the services of a lawyer who does probate.

That lawyer will submit your Will to Court for your Executors and will assist in the process of transferring assets and so on.

5. "I've followed everything in your Signing and Storage Instructions manuals. Is there anything else left?"

That's great!

Our manual, "Instructions for Signing", explains how to sign your Will and to have it witnessed by two other people.

If you've followed it then you have a fully valid Will.

Our manual, "Instructions for Storage", explains that your job is to preserve your original Will throughout the remainder of your entire life and up to your death, after which it must be found by your Executors.

Outside of this, there is nothing else that you are required to do.

There is no stamping or notarization, no filing or registration, or anything of the sort needed.

There is however one, single step to that take that is entirely optional, and that is to obtain an "Affidavit of Execution".

6. "What is an 'Affidavit of Execution'?"

It is an extra document that confirms that a witness of your Will really did witness your Will.

As you know, in your Will, there are witnesses to your signing.

In an Affidavit of Execution, which is a separate document, one of your witnesses themselves additionally confirms that they truly did witness your Will.

The Affidavit of Execution helps to 'prove' the Will when it is submitted to Court after your death.

It goes by different related names such as, "Affidavit of Execution", "Affidavit of Execution of Will", "Execution Affidavit", and "Affidavit of Witness to a Will".

7. "Why is it optional?"

Having a properly signed and witnessed Will is required in order to establish your intentions.

But there is no need to have an Affidavit of Execution at that same time.

It is only when you've died and the Will has been submitted to Court that an Affidavit of Execution comes into play.

There are thus three possibilities. After you've died and your Executors have submitted the Will, in order to help 'prove' it, they may:

- 1.** Reach out to one of your witnesses and have them sign an Affidavit of Execution at that time; or,
- 2.** Show proof of best efforts at finding your witnesses, if they're not alive or not reachable; or,
- 3.** Use an Affidavit of Execution you had one of your witnesses sign long ago, at the time of the Will's signing.

Any of these is fine, and thus the purpose of optionally getting an Affidavit of Execution now is just for convenience during the ultimate Court process.

8. "Okay, so it's optional. If I want it now, how do I get it?"

Make an appointment with a "Notary Public" or "Commissioner of Oaths and Affidavits" in your area. You may find one using Google.

You specifically ask: "I have created a Will and I have signed it along with witnesses. That part is done. Now, I would like to have one of my witnesses sign an Affidavit of Execution. Please prepare one. I will bring my witness and my signed original Will to the appointment."

To the appointment you must bring with you i) one of your witnesses, and ii) your signed original Will.

The notary or commissioner will i) have an Affidavit of Execution prepared and ready, ii) have your witness sign it, and iii) make an additional marking or stamp on your signed original Will.

The cost for this is usually in the range of \$25 to \$100.

Once done, you will receive the witness' signed original Affidavit of Execution, which will be a single page. You must store it along with you original Will.

We do not provide templates for Affidavits of Execution on this website. This is because, unlike Wills, they are province-specific, and they are more likely to change in format. The notary or commissioner will easily have one prepared

for you.

9. "Okay, so it's optional. What happens if I don't get it now?"

When you've died, and your Executors have submitted your Will to Court, they can reach out to one of your witnesses and have them sign an Affidavit of Execution at that time, to 'prove' your Will.

Alternatively, if at that time your witnesses are not alive or are unreachable, then your Executors can file proof of their best efforts made to reach your Executors, plus proof of confirmation of your handwriting, and that will be sufficient.

Therefore, the purpose of getting an Affidavit of Execution right now is simply for a bit of convenience during the ultimate Court process after your death. It saves the extra time and effort of trying to locate your witnesses, and that's all. That is why getting one now is optional.