A **will** is a legal document that states **who will receive your property after you pass away.** The property you own at the time of your death is called your **estate.**

The term "Indian" is not an appropriate contemporary term; however, it remains a defined legal term in the Indian Act. We use it only when necessary to reflect the statute.

This document is not legal advice. Please speak to a lawyer for specific advice on your situation.

What Happens if I Don't Have a Will?

If you die without a valid will, your property will be distributed according to the New Brunswick *Devolution of Estates Act* or the *Indian Act,* depending on your situation.

These laws aim to reflect common distribution preferences but may not align with your wishes.

Wolastoqey Tribal Council Inc.

New Brunswick Law Foundation
Fondation pour le droit au Nouveau-Brunswick

For more details on making a will, visit our website.

Wolastoqey Tribal Council Inc.

New Brunswick Law Foundation
Fondation pour le droit au Nouveau-Brunswick

Making a Will



There are different rules around wills and estates, depending on your situation. Generally:

- If you are a Status Indian who lives **on a reserve or on Crown lands** at the time of death, federal rules under the *Indian Act* and *Indian Estates Regulations* will apply.
- If you are not a Status Indian or you are living **off reserve or on private lands** at the time of death, the New Brunswick **(NB)** *Wills Act* will apply, or the NB *Devolution of Estates Act* if you die without a will **(intestate).**

Why Should I Make a Will?

Making a will allows you to set out:

- Who gets your property (also known as your **beneficiaries**);
- Who carries out your wishes and distributes your estate after you die (also known as an **executor**);
- Who will be a guardian for your children under age 19 (subject to court approval).

A will reduces confusion, delays, and conflict.



What Can I Do in My Will?

- Manage your estate;
- Pay debts;
- Set out who will receive your property;
- Set out who will look after your children or pets;
- Make arrangements for financial support for dependants;
- And more.

What Are the Basic Requirements of a Will?

Under NB law, a will must be, among other requirements:

- In writing;
- Signed and witnessed;
- Be made when in sound mind.

Consulting a lawyer is highly recommended to ensure your wishes are reflected clearly in your will.

What Should I Prepare Before Making My Will?

Before making your will, gather documents like lists of beneficiaries, property, assets and debts, any special wishes or instructions, a copy of your marriage certificate or separation agreements, and any prior wills.

If you decide to use a lawyer to prepare your will, and you have Indian status and live on reserve, make sure your lawyer is aware of this before preparing your will.

Where Should I Keep My Will?

Store your will in a safe, fireproof place, like a safety deposit box. Make sure your executor knows where it's located.

How Do I Change My Will?

Review your will every 3-5 years or after significant life events, such as marriage, divorce, or the birth of a child.

For more details on making a will, visit our website.