



BIRMAN & RIDE

Will Instruction Form

This document is not a Will

If your affairs are straightforward, this form is designed to capture all of the information we need in order to make your Will. The cost for preparing a straightforward Will is \$150 per person.

Please complete a separate form for each person. If both you and your spouse require Wills, please complete two forms and enclose payment of \$300 with one form.

The form is not designed for people with complex affairs or those who require a complex Will. In this case you should contact us for an **initial consultation** (see page 7).

If you have any questions about how to complete the form please call us on **9220 4433** for free assistance.

Personal Details

Your surname		Given name(s)		Date of birth
<input type="text"/>		<input type="text"/>		<input type="text"/>
Address			Suburb / town	Postcode
<input type="text"/>			<input type="text"/>	<input type="text"/>
Home telephone	Work	Mobile	E-mail	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Industry	Occupation		Referred by	
<input type="text"/>	<input type="text"/>		<input type="text"/>	

Does marriage, divorce or separation affect your Will?

If you are contemplating marriage or you are in a de facto relationship, your Will should state that it is made in contemplation of marriage. Otherwise, a pre-existing Will is automatically revoked when you marry.

If you have divorced after 8 February 2008 your existing Will in Western Australia is thereby revoked. If you have recently separated and you have a Will, chances are you have left everything to your former spouse. If you don't have a Will, the law assumes that he / she is your major beneficiary until you are divorced. In these circumstances you should consider making a new Will.

Q1 Are you currently married?

No Yes Separated Widowed

Your spouse's full name, if applicable Spouse's age

Q2 Are you contemplating marriage or are you in a de facto relationship?

Yes - Partner's full name Partner's age
 No

Property that is not affected by a Will

Some property you regard as your own may not form part of your estate upon your death.

Upon your death property you own as a **joint tenant** with another person is not affected by your Will, it passes to the surviving joint owner(s). Examples are:

- real estate such as the family home that you own as a **joint tenant** with your spouse or another person;
- jointly owned bank, building society or credit union accounts; and
- jointly owned shares.

Another example of property not affected by your Will is entitlements under a superannuation or life insurance policy where benefits are payable to a nominated beneficiary in the event of your death.

Q3 Do you want everything to go to your spouse / partner if he / she survives you?

Yes No Not applicable

Q4 Does your spouse / partner require an identical Will?

Yes - NOTE: *Please ask your spouse/partner to complete a separate Will Instruction Form.*

No
 Not applicable

The executor of your Will

Your executor is the person you nominate in your Will to administer your estate and carry out your wishes upon your death. You should give careful thought to the choice of executor in your Will.

The duties of an executor include the following:

- take charge of and protect your assets;
- make arrangements for your funeral;
- notify all interested parties including the beneficiaries named in your Will;
- if necessary, obtain an authority to administer your estate in the form of a Grant of Probate from the Supreme Court;
- pay funeral expenses and any debts of your estate;
- finalise income tax returns; and
- sell or distribute your assets according to the directions in your Will.

The reasonable costs and out of pocket expenses incurred by your executor are normally paid out of your estate.

Your executor is generally entitled to retain professional assistance if he or she requires it.

Who should be your executor?

Your executor does not need any special qualifications, but you should choose someone reliable. Your executor is not bound to act for you so it is wise to talk the matter over with them first.

If your chosen executor requires professional assistance he or she can engage a lawyer or other professionals when the time comes. We offer free information about administering deceased estates.

You can appoint one or more executors, and you can appoint an alternative executor in case your primary executor is unable or unwilling to act after your death.

Any beneficiary in your Will can act as an executor of your Will.

The choice of executor is entirely for you but the following points may help you decide:

- If you are leaving everything in your Will to one person only it makes sense to appoint that person as your executor.
- If you are leaving everything to your spouse if he / she survives you then it makes sense to appoint your spouse as your primary executor.
- If you are leaving everything to your children in the event that your spouse dies before you, then consider appointing one or more of your children (over the age of 18) as your alternative executor.
- You can appoint a trusted family friend or relative.
- You can make a direction in your Will that your executor engage a solicitor such as Birman & Ride to assist them in the administration of your estate.
- You can appoint a professional executor such as the Public Trustee, a trustee company or a firm of solicitors such as Birman & Ride.

Professional executors and trustees

Sometimes there are advantages to having a professional executor:

- your family will not have to make many decisions about your affairs and much of the work will be done for them;
- the executor will have all of the skills necessary to wind up the estate quickly;
- the executor will be independent and impartial if a dispute arises.

Trustee Companies and the Public Trustee

Trustee companies, including banks, offer Wills appointing themselves as your executor. When you die they administer your estate and deduct a fee. In most cases the fee is based on the gross value of your assets.

The Public Trustee prepares Wills appointing himself as executor and also Wills nominating private executors and charges a fee for this service. He offers a substantial discount on the fee if you appoint him as your executor. When you die, if the Public Trustee is your executor, he charges for estate administration on a fee for service basis.

If your circumstances require a professional executor, consider appointing us

Birman & Ride have over 20 years experience in the administration of deceased estates. If you would like a professional executor we can act on your behalf and administer your estate in an independent and professional manner. You may appoint us to act as your executor jointly with trusted family friends or relatives.

Q5 Do you wish to appoint your spouse / partner as your executor if he / she survives you?

No Yes

Answer the remaining questions as if your spouse / partner has not survived you

Q6 Please name your executor(s)

Full name Relationship to you

Address

Full name Relationship to you

Address

Unless you instruct us otherwise we will appoint your executors to act jointly

Q7 Do you wish to direct your executor to engage a solicitor to assist them with the administration of your estate?

- Yes – I direct my executor to engage Birman & Ride
- Yes – I direct my executor to engage (name other lawyers)
- No

Giving a specific gift in your Will

Unless you want to leave a specific gift to someone other than your children (or other main beneficiaries) it is usually unnecessary and may be inadvisable to give specific gifts in your Will because:

- your assets will change during your lifetime; and
- your personal possessions in particular may be lost, destroyed or disposed of prior to your death.

If you are leaving your estate to your children equally your executor may:

- allow your children to take specific personal possessions as part of their entitlements; or
- sell your personal possessions and divide the proceeds among them.

Q8 Would you like to leave a specific gift to anyone before the remainder of your estate is distributed?

- No Yes - give details

Beneficiary - give full name(s) and address or relationship to you	Describe gift or cash value
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

Leaving the remainder of your estate to your children

If your spouse does not survive you, it is usual to leave the remainder of your estate to your children in equal shares.

Your children includes any child for whom you are the natural parent including:

- any child you may have in the future;
- any adopted or illegitimate children; and
- any child of a previous marriage;

but does not include step-children.

If you die leaving infant children, your executor will be empowered to provide for their maintenance, education and benefit from their share of your estate.

Q9 Would you like to leave the remainder of your estate to your children equally?

No Yes – give details

Full name(s) of child / step-child	Relationship	Tick if under 18
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>

NOTE: Unless you instruct us otherwise children will receive their share at 18

What if one of your children dies before you?

If any of your children die before you, you can elect to have their share to pass to:

- your children who do survive you;
- their children – i.e. your grandchildren – in equal shares; or
- their spouse or another relative. This option is not provided on this form. Please contact us for an initial consultation (see page 7).

Q10 If one of your children dies before you, do you want that child's share to go to his / her children (your grandchildren) equally?

No Yes

What if you don't wish to leave your estate to your children (and grandchildren)?

If you:

- don't have any children;
- wish to leave your estate to your children unequally; or

- wish to indicate who should share your estate should all your children (and grandchildren if applicable) die before you;

then you must give the full names of your beneficiaries and the percentage share you wish each of them to take.

If any beneficiary named in this instance dies before you, his / her share will be divided pro rata between the surviving beneficiaries.

Where you are leaving your estate to your children unequally, you may need specific advice on the possibility of your Will being challenged under the *Inheritance (Family and Dependants Provision) Act*.

Q11 Name the persons you wish to share in your estate and the percentage gift:

If these persons are not related to you please include their address

Full name(s)	Relationship or address	% gift

Consider naming a guardian for your infant children

If you have custody of infant children you may appoint a guardian for them in your Will.

This appointment is subject to challenge on the basis that it is not in the children's best interests following your death.

You may wish to nominate the person(s) you have chosen as executor at Q6.

Q12 Would you like to name a guardian for your infant children (if any)?

If these persons are not related to you please include their address

No Yes – give details:

Full name(s)	Address or relationship to you

Can your Will be challenged after your death?

You are entitled to dispose of your assets as you wish in your Will but you should know that under the *Inheritance (Family and Dependants Provision) Act*, the distribution of your estate may be challenged if you fail to make adequate provision for some family members.

Spouses, former spouses in receipt of maintenance, children, dependant grandchildren, parents and de facto spouses are all entitled to challenge your Will.

The person making the claim must show that you didn't make adequate provision from your estate for their proper maintenance, support, education or advancement in life.

The Supreme Court examines every application on its merits.

The Court is generally reluctant to rule against the wishes expressed in your Will unless the person claiming can show some need for your inheritance over and above the needs of the beneficiaries in your Will.

What about your old Will?

You can make a new Will at any time. A new Will makes your previous Will invalid. It is sensible to destroy your old Will when you make a new one. If your old Will is held by the Public Trustee or a trustee company it is courteous to advise them that their services are no longer required.

We recommend that you review your Will from time to time or when your circumstances change.

Do you need an initial consultation?

A short initial consultation costs \$99 (including GST) and takes about 20 minutes.

At the consultation we will discuss your requirements and give you a fixed price quote for preparation of your Will.

If:

- you would prefer to discuss your Will in person with a lawyer;
- your affairs are more complex; or
- require a Will on an urgent basis.

then we recommend that you call us on **9220 4433** to arrange an initial consultation.

We recommend that you see us at an initial consultation if you:

- want to leave long lists of gifts;
- want to leave anything to charity;
- have an interest in a family company, family trust, business or partnership;
- have a self-managed superannuation fund;
- have identified the possibility of your Will being challenged under the *Inheritance (Family and Dependents Provision) Act* where indicated above;
- intend to leave your estate to persons other than your spouse or de facto spouse, children or other dependants;
- do not understand the English language, you have difficulty understanding these instructions or if you are unable to sign your name;
- want to give your property away with certain conditions attached – for example rights to purchase or life estate interests; or
- require capital gains or other tax or estate planning information.

Terms and conditions

- Birman & Ride reserves the right to refuse to accept your instructions and refund any monies paid to you in full.
- You acknowledge and agree that you have read and understood the contents of this brochure before giving us your instructions.
- We will prepare your Will as soon as possible upon receipt of your instructions but we may take up to 28 days from receipt of your instructions to complete them. If you require an **urgent Will** you should arrange an initial consultation.

Please include your payment with this form

Straightforward Will (\$150 per person):	\$		
Less: discount (if any):	\$	Discount code: <input type="text"/>	
Amount payable:	\$		
<input type="checkbox"/> Cheque attached; or charge my	<input type="checkbox"/> Amex	<input type="checkbox"/> Visa	<input type="checkbox"/> MasterCard
Card holder's name	<input type="text"/>	Expiry date	<input type="text"/> / <input type="text"/>
Number:	<input type="text"/>	CCV No:	<input type="text"/>
			(digits on authorised signature panel)
Cardholder's signature	<input type="text"/>		
Your signature	<input type="text"/>	Date	<input type="text"/> / <input type="text"/> / <input type="text"/>

Once you have completed the form

Please return it to us together with your payment either by:

- **email:** wills@birmanride.com.au;
- **fax:** 9220 4492; or
- **mail:** Birman & Ride, Level 3, 16 Irwin Street, Perth, WA, 6000.

When we receive your completed form and payment we will:

- contact you to clarify your instructions; and
- prepare your Will and mail it to you with instructions for signing and safe keeping.

You can either sign the Will at home or call into our office and sign it here. There is no charge for this service.

You are welcome to store the completed Will in our safe custody documents facility. There is no charge for storing the Will; however there may be a small administration charge for returning the Will to you upon your request.