

SIGNING AND WITNESSING INSTRUCTIONS FOR

WILLS

ENDURING POWERS OF ATTORNEY

and

ENDURING POWERS OF GUARDIANSHIP

WILLS

1. Printing

Print the Will as a single-sided document.

Wills can be stapled, bound or clipped together (clipping without piercing the papers makes it easier to electronically scan the Wills).

If stapled or bound, on no account should the staples or binding be removed, replaced or changed after the Will is signed and witnessed as this could give the Probate Office reason to doubt the validity or authenticity of the original Will.

2. Signing, dating and witnessing

The will-maker (also known as a *testator* if male, or a *testatrix* if female) must sign the Will in the presence of two witnesses, all who must be present at the same time and in the same place.

- Both witnesses must be independent adult witnesses (i.e., aged 18 or over and not named in the Will e.g., as executor, trustee or a beneficiary).

The will-maker must sign the Will (in each case using their full signature, not initials) in the presence of the two witnesses at the bottom of each page on the dotted line above their name, and on the last page on the dotted line above their name to the right of the signing block.

The witnesses must then sign the Will (in each case using their full signature, not initials) at the bottom of each page on the dotted lines to the right of the will-maker's signature, and on the last page in the witness signing area below the will-maker's signature block.

Each witness must then legibly print (we suggest using block capitals) their full names, addresses and occupations) below their signatures in the spaces provided.

Finally, the will-maker must date the Will at the top of the last page in the spaces provided – the day-date and year can be written in numerals, but the name of the month should be written in words e.g., "*Dated the 1st day of January 2024*".

ENDURING POWER OF ATTORNEY (EPA)

1. Printing

It is important to print two duplicate copies of the EPA as Landgate (the Western Australian land registry) retains one original and returns the other original to the appointor.

The duplicate EPAs must be printed duplex / double sided, so each consists of four printed pages on two sheets of white A4 paper (this is a Landgate requirement - EPAs printed single-sided will be rejected).

2. Signing, dating and witnessing

The person making the EPA (who is also referred as the 'donor') and appointing the attorney(s) must sign the duplicate EPAs in the presence of two witnesses, all who must be present at the same time and in the same place.

- The first witness must be an Authorised Witness (see page 4 of this guidance note for a list of those persons who can act as an Authorised Witness).
- The second witness must be an independent adult witness but does not need to be an Authorised Witness.

When signing the EPA in front of the witnesses, the appointor must date the EPA in the spaces at the top of the form on page 1 of the EPA.

The day-date and year can be written in numerals, but the name of the month should be written in words e.g., "*the 1st day of January 2024*".

3. Acceptance by attorney(s)

Each attorney appointed under an EPA must accept his or her appointment by signing the duplicate EPAs on page 2 of the EPA against their name and adding the date. The date of acceptance can be after the date of the EPA but must not be earlier.

An attorney's signature does not require witnessing.

4. Returning and lodgement

EPAs can be lodged with Landgate or kept in a safe place for later lodgement (if the need ever transpires, and in which case the EPA will need an accompanying separate statutory declaration).

If lodging with Landgate, the attorneys must return the duplicate EPAs to the appointor or their legal advisors as soon as possible because there is a strict 2 month time limit between the date the appointor signed the EPA and the date it must be lodged with Landgate.

If the appointor is self-lodging at Landgate:

- The "Lodged by", "Prepared by", "Address", and any other boxes that are left blank on page 4 of the EPA, should be completed by hand with the appointor's details so Landgate knows who to contact to arrange for the collection of the second duplicate copy.
- To lodge the EPA, the appointor or their representative must take both original signed duplicate EPAs to Landgate (either their Perth CBD or Midland offices) together with the lodgement fee (see: (<https://www.landgate.wa.gov.au/land-and-property/land-transactions-hub/land-transaction-fees/>)). Landgate will accept cheque, EFTPOS or credit card payments.

Please ensure the EPAs (or duplicate if lodged and then returned), is kept in a safe place and the attorneys know of its whereabouts.

ENDURING POWER OF GUARDIANSHIP (EPG)

1. Printing

It is recommended that two duplicate copies of an EPG are printed for signing.

Unlike EPAs, EPGs can be printed single-sided.

2. Signing, dating and witnessing

The person making the EPG must sign the duplicate EPGs in the presence of two witnesses, all who must be present at the same time and in the same place.

- The first witness must be an Authorised Witness (see page 4 of this guidance note for a list of those persons who can act as an Authorised Witness).
- The second witness must be an independent adult witness but does not need to be an Authorised Witness.

When signing the EPG in front of the witnesses, the person making the EPG must date it in the spaces at the top of the form on page 1 of the EPG.

The day-date and year can be written in numerals, but the name of the month should be written in words e.g., “*the 1st day of January 2024*”.

3. Acceptance by enduring guardians

Each enduring guardian and substitute enduring guardian (if any) appointed under an EPG must accept his or her appointment by signing the duplicate copies of the EPG in the presence of two witnesses:

- the first witness must be an Authorised Witness (see page 4 of this guidance note for a list of those persons who can act as an Authorised Witness); and
- the second witness must be an independent adult witness but does not need to be an Authorised Witness.

on their respective acceptance of appointment pages at the back of the EPG.

Each enduring guardian must print the date next to their signature when they sign the duplicate EPGs in front of the two witnesses.

The date each enduring guardian accepts his or her appointment can be on or after the date of the EPG is signed by the maker, and each enduring guardian can accept their appointments on different dates, provided that no enduring guardian can accept their appointment on a date before the date the EPG is signed by the maker.

The EPG will be valid once all parties have signed and dated the EPG in front of their respective witnesses.

4. Returning and lodgement

EPGs have no lodging requirements.

Please ensure that both duplicate EPGs are kept in safe places and the enduring guardian(s) know their whereabouts.

AUTHORISED WITNESSES

1. Authorised Witnesses within Western Australia

A list of persons who are authorised witnesses for statutory declarations in Western Australia under the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA) are set out on pages 5-6 of this guidance note.

It may be convenient to take an EPA or EPG to a pharmacy and ask the pharmacist (who is an authorised witness under the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA)) and another employee of the pharmacy who is aged 18 or over to witness signatures.

Otherwise, any of the persons listed on pages 5-6 of this guidance note are equally qualified to act as an authorised witness.

2. Authorised Witnesses outside Western Australia but within another Australian State or Territory

Where a witness is required to be an authorised witness outside Western Australia but within another Australian State or Territory, the authorised witness may be:

- any person who, under the law of that Australian State or Territory, has authority to take or receive a statutory, solemn or other declaration; or
- any person in whose presence a statutory declaration may be made under the Commonwealth of Australia's *Statutory Declarations Act 1959* (Cth): www.ag.gov.au/legal-system/statutory-declarations/who-can-witness-your-statutory-declaration.

It may be necessary to seek legal advice to ensure a person has authority to take or receive a statutory, solemn or other declaration in that place.

3. Authorised Witnesses outside Australia

Where a witness is required to be an authorised witness at a place outside Australia, the authorised witness may be:

- a prescribed Australian Consular Official who is performing official functions at that place;
- a person who is a Justice or Notary Public under the law of that place; or
- a person who has authority under the law of that place to administer an oath to another person or to take, receive or witness a statutory, solemn or other declaration.

It may be necessary to seek legal advice to ensure a person has authority under the law of that place to administer an oath to another person or to take, receive or witness a statutory, solemn or other declaration.

AUTHORISED WITNESSES FOR STATUTORY DECLARATIONS (within Western Australia)

(s 12(6)(a) of the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA))

Item	Formal description	Informal description
1	A member of the academic staff of an institution established under any of the following Acts: <ul style="list-style-type: none"> • <i>Curtin University of Technology Act 1966</i> (WA); • <i>Edith Cowan University Act 1984</i> (WA); • <i>Murdoch University Act 1973</i> (WA); • <i>University of Notre Dame Australia Act 1989</i> (WA); • <i>University of Western Australia Act 1911</i> (WA); or, • <i>Vocational Education and Training Act 1996</i> (WA). 	Academic (post-secondary institution)
2	A member of any of the following bodies: <ul style="list-style-type: none"> • Association of Taxation and Management Accountants (ACN 002 876 208); • CPA Australia (ACN 008 392 452); • The Institute of Chartered Accountants in Australia (ARBN 084 642 571); • Institute of Public Accountants (ACN 004 130 643); or, • National Tax & Accountants' Association Limited (ACN 057 551 854). 	Accountant
3	A person who is registered under the <i>Architects Act 2004</i> (WA).	Architect
4	An Australian Consular Officer within the meaning of the <i>Consular Fees Act 1955</i> (Cth).	Australian Consular Officer
5	An Australian Diplomatic Officer within the meaning of the <i>Consular Fees Act 1955</i> (Cth).	Australian Diplomatic Officer
6	A bailiff appointed under the <i>Civil Judgments Enforcement Act 2004</i> (WA).	Bailiff
7	A person appointed to be in charge of the head office or any branch office of an authorised deposit-taking institution carrying on business in the State under the <i>Banking Act 1959</i> (Cth).	Bank manager
8	A member of Governance Institute of Australia Ltd (ACN 008 615 950).	Chartered secretary, governance adviser or risk manager
9	A person who is registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> (WA) in the pharmacy profession.	Chemist
10	A person who is registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> (WA) in the chiropractic profession.	Chiropractor
11	A person registered as an auditor or a liquidator under the <i>Corporations Act 2001</i> (Cth).	Company auditor or liquidator
12	A judge, master, magistrate, registrar or clerk, or the chief executive officer, of any court of the State or the Commonwealth.	Court officer
13	A member of the Australian Defence Force who is: <ul style="list-style-type: none"> • an officer within the meaning of the <i>Defence Force Discipline Act 1982</i> (Cth); • a non-commissioned officer within the meaning of that Act with 5 or more years of continuous service; or, • a warrant officer within the meaning of that Act. 	Defence force officer
14	A person registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> (WA) in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law.	Dentist
15	A person who is registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> (WA) in the medical profession.	Doctor
15A	A person appointed under the <i>Parliamentary and Electorate Staff (Employment) Act 1992</i> (WA) s 4(1)(b)(i) or s 4(2)(b)(i).	Electorate officer of a member of State Parliament
16	A member of the Institution of Engineers, Australia, other than at the grade of student.	Engineer
17	The secretary of an organisation of employees or employers that is registered under one of the following Acts: <ul style="list-style-type: none"> • <i>Industrial Relations Act 1979</i> (WA); or, • <i>Workplace Relations Act 1996</i> (Cth). 	Industrial organisation secretary

Item	Formal description	Informal description
18	A member of the National Insurance Brokers Association of Australia (ACN 006 093 849).	Insurance broker
19	A Justice of the Peace.	Justice of the Peace
19A	A person who is a member of the Authority's staff within the meaning given to that term by the <i>Land Information Authority Act 2006</i> (WA) s 3.	Landgate officer
20	An Australian lawyer within the meaning of that term in the <i>Legal Profession Act 2008</i> (WA) s 3.	Lawyer
21	The chief executive officer or deputy chief executive officer of a local government.	Local government CEO or deputy CEO
22	A member of the council of a local government within the meaning of the <i>Local Government Act 1995</i> (WA).	Local government councillor
23	A member of the Australasian Institute of Chartered Loss Adjusters (ACN 074 804 167).	Loss adjuster
24	An authorised celebrant within the meaning of the <i>Marriage Act 1961</i> (Cth).	Marriage celebrant
25	A member of either House of Parliament of the State or of the Commonwealth.	Member of Parliament
26	A minister of religion registered under Part IV Division 1 of the <i>Marriage Act 1961</i> (Cth).	Minister of religion
27	A person registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> (WA) in the nursing and midwifery profession.	Nurse
28	A person registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> (WA) in the optometry profession.	Optometrist
29	A registered patent attorney under the <i>Patents Act 1990</i> (Cth).	Patent attorney
30	A person registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> (WA) in the physiotherapy profession.	Physiotherapist
31	A person registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> (WA) in the podiatry profession.	Podiatrist
32	A police officer.	Police officer
33	The person in charge of an office established by, or conducted by an agent of, Australia Post within the meaning of the <i>Australian Postal Corporation Act 1989</i> (Cth).	Post office manager
34	A person registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> (WA) in the psychology profession.	Psychologist
35	A public notary within the meaning of the <i>Public Notaries Act 1979</i> (WA).	Public notary
36	An officer of the Commonwealth public service.	Public servant (Commonwealth)
37	A person who is employed under the <i>Public Sector Management Act 1994</i> (WA) Part 3.	Public servant (State)
38	The holder of a licence under the <i>Real Estate and Business Agents Act 1978</i> (WA).	Real estate agent
39	The holder of a licence under the <i>Settlement Agents Act 1981</i> (WA).	Settlement agent
40	The Sheriff of Western Australia and any deputy sheriff appointed by the Sheriff of Western Australia.	Sheriff or deputy sheriff
41	A licensed surveyor within the meaning of the <i>Licensed Surveyors Act 1909</i> (WA).	Surveyor
42	A person registered under the <i>Teacher Registration Act 2012</i> (WA).	Registered teacher
43	A member, registrar or clerk, or the chief executive officer, of any tribunal of the State or the Commonwealth.	Tribunal officer
44	A registered veterinary surgeon within the meaning of the <i>Veterinary Surgeons Act 1960</i> (WA).	Veterinary surgeon