

## Wills: Discovering more about your ancestors

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### WILLS - NOTES

A **will** is a legal document in which a person can give instructions on how their property should be distributed after they die, and naming **executors** to do this on their behalf.

A **probate** file contains documents received or created by the Supreme Court to verify the will and issue the **grant of probate** that authorises the executors named in it to distribute the estate.

An **administration** file contains documents received or created by the Supreme Court to issue the grant of letters of administration that authorises the distribution of the estate in cases where the deceased left no will or new executors had to be named.

A deceased's **estate** consists of real estate and/or personal property and debts that need to be managed and finalised.

### **SOUTH AUSTRALIA**

<https://www.courts.sa.gov.au/> E: [enquiry@courts.sa.gov.au](mailto:enquiry@courts.sa.gov.au)

One of the roles of the Supreme Court of South Australia is to make orders in relation to the validity of a Will of a deceased person, appoint an executor or an administrator, and the administration of a deceased estate. The **Probate Registry** is the registry of the court which deals with applications for grants of probate or administration and other related matters. The registry keeps a register of probates and administrations granted by the court. The Probate Registry manages this work for the court and maintains the records.

There are three types of grants: Probate, Letters of Administration with the Will annexed, and Letters of Administration.

Once the legal process has been completed the public can access these documents and Wills in particular are a useful resource for family historians. As a rule of thumb the older the Will the more informative it will be as early Wills went to great lengths to clearly identify the beneficiaries.

The Probate Registry Adelaide holds the index of all Wills to 1999. You can access a poor quality fiche version of the index at the State Library and the SA Genealogy & Heraldry Society. This will provide you with the number of the Will.

If you require a Will from 2000 you need to contact the staff at the Probate Registry with the full name and date of death in the case of a common name. You cannot access a Will until Probate has been granted and the assets distributed.

Once a grant of probate has been made, it becomes a matter of public record. A will lodged with the court on an application for probate is not a public record unless and until a grant of probate has been made. This process can take months rather than weeks, so a person may have to wait some time until they can get a copy.

Once probate has been granted, members of the public can obtain a copy of any will that has been lodged with the Probate Registry, online through CourtSA (after creating an account

and conducting a search). Wills lodged after 1980 are kept electronically but those lodged prior to 1980 are not and will require a manual search. The Probate Registry transitioned to the electronic filing service called CourtSA in late 2018.

If unsure whether or not a will has been lodged and granted probate, a person may need to periodically conduct a search.

## NEW SOUTH WALES

<https://www.records.nsw.gov.au/archives/collections-and-research/guides-and-indexes/probate-packets-wills-guide>

### Where can I access the records?

1817-1976, & 1989 (partial holdings only)

NSW hold Probate packets for the years 1817 to 1976 (up to packet no. 4-828673), and part of 1989 (packets 100001/1989-105663/1989).

Please note that **not everyone who died in New South Wales has a probate packet.**

Depending on the type, size and value of the assets located in New South Wales it may not be necessary to obtain a grant of probate in New South Wales. There is no statutory requirement to obtain probate in every case.

The records are not digitised. You can visit the reading room to access these records for free, or alternatively you can purchase a copy from the item page in Collection Search.

### 1976+ and 1989 records not held by NSW Public Records.

Please contact the Probate Division of the NSW Supreme Court

<https://www.supremecourt.justice.nsw.gov.au/> for information about accessing records in this time period.

## VICTORIA

<https://prov.vic.gov.au/explore-collection/explore-topic/wills-and-probates>

Around 95% of probates administered from January 2017 onward are still with the Supreme Court of Victoria.

Search using the online form with the surname and given name/s of the deceased to find a Will and Probate or Administration file.

- **After 1994**, Wills were placed in the Probate file, and you only need to order one record (the 'Probate' file).
- **Before 1994**, Wills were not placed in the Probate file, and you need to order the Will and the Probate file. You will often see more than one result relating to the person you are looking for.
- **To obtain the complete probate or administration file until 1909** you will probably need to order two files.

### How to search?

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Enter a partial or full name in the search form. For common names, a year of death is also useful.

Sort by date ascending on the top right-hand side of the results page.

Note: Only some wills and probate records are digitised:

- **records 1841-1925** can be viewed online;
- **records 1926-2016** can be ordered to view at North Melbourne;
- View and photograph the records in the Reading Room for free;
- Or, request a copy be emailed or posted to you (fees apply) on your selections page.

**Not there?** There are several reasons why you might not find an individual in the index – the most common are:

- The process of granting probate or letters of administration has not yet been completed (it can take several years, or on rare occasions, decades after death). Check with the Supreme Court whether the order of probate or letters of administration has been granted.
- The estate was not of a size or complexity that required an order of probate or letters of administration to be granted.
- The deceased did not own any assets in Victoria.
- Around 95% of probates administered from **January 2017** onward are still with the Supreme Court of Victoria.

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**All Australian states have a Probate Registry within the Supreme Court of the state.**

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## UK Wills

To order a Will for England and Wales from 1858 to the present: [probatesearch.service.gov.uk](http://probatesearch.service.gov.uk)

- Enter the person's surname and year of death.
- The probate entries then come up, find their probate and complete a further form using this information to apply for the Will, if there is one.
- You can find the probate entry on Ancestry but not the Will.
- You need to register and pay £1.50 per Will.
- Takes about a week to arrive in electronic form.
- Available for a month after first opened but you can download it and save to your computer.

## **OTHER LINKS**

<https://www.nationalarchives.gov.uk/help-with-your-research/research-guides/wills-1384-1858/>

<https://www.familyhistory.co.uk/wills-probate-archive-records/> (post 1857)

<http://www.willcalendars.nationalarchives.ie/search/cwa/home.jsp>

[https://www.familysearch.org/wiki/en/United States Probate Records](https://www.familysearch.org/wiki/en/United_States_Probate_Records)

<http://www.willcalendars.nationalarchives.ie/search/cwa/home.jsp>

<https://www.nrscotland.gov.uk/research/guides/wills-and-testaments>

<https://www.nidirect.gov.uk/information-and-services/search-archives-online/will-calendars>

[https://www.familysearch.org/wiki/en/United States Probate Records](https://www.familysearch.org/wiki/en/United_States_Probate_Records)

[https://www.familysearch.org/en/wiki/Germany Probate Records](https://www.familysearch.org/en/wiki/Germany_Probate_Records)