

# The 3-month rule: Why updating your Will post-divorce is crucial

Divorce is a major life change that necessitates an immediate review of your Will. The Wills Act No. 7 of 1953 provides you with a three-month grace period, post-divorce to update your Will. Failing to act within this period could result in your ex-spouse inheriting, which may be contrary to your wishes.

By [Jane Rushton](#) 14 May 2025

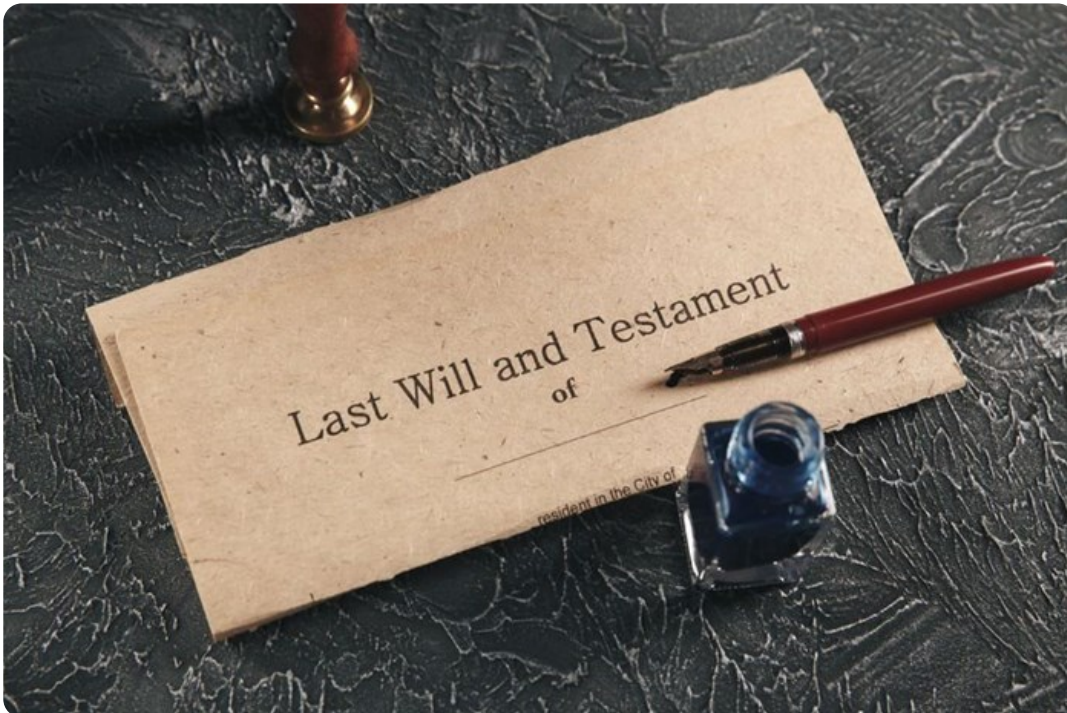


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Section 2B of the Wills Act stipulates that if a person dies within three months after their marriage has been dissolved by divorce or annulment, their Will should be executed as if their ex-spouse had died before the dissolution. This means that, unless you clearly stated in your Will that your ex-spouse should still benefit even after the divorce, they will not inherit during this three-month period.

This provision essentially gives you a grace period to reconsider your Will following a divorce, allowing you to make any necessary changes to ensure that your wishes are accurately reflected.

## Consequences after the three-month window

What happens if after the three-month period you have failed to amend your Will? The legal assumption shifts. At this point, the law presumes that by not updating your Will, you intended for your ex-spouse to still benefit from your estate. This means that if you pass away after this period, your ex-spouse will inherit according to the terms of your existing Will, regardless of the divorce.



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This could have significant consequences. If you no longer wish for your ex-spouse to inherit, failing to update your Will after a divorce could result in them receiving assets that you may have intended for others such as children from a new relationship or other loved ones.

## Practical advice: Update your Will during divorce proceedings

While Section 2B provides a three-month grace period, it is advisable to review and update your Will as soon as divorce proceedings begin. Divorce can be a highly emotional time, and you may not be thinking about your estate plan, but this step is crucial to ensure that your assets are distributed according to your current wishes.

It's also important to consider what might happen if you die before your divorce is finalised. In such a case your spouse will still have a claim against your estate, even if they are not a beneficiary under your Will, depending on the matrimonial property regime governing your marriage. This is why updating your Will early in the process can safeguard your estate and ensure that it is handled according to your desires.



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A 2020 case, *JW v Williams-Ashman NO and Others*, brought the implications of Section 2B into sharp focus. In this case, the applicant's ex-wife committed suicide within three months of their divorce. Due to the application of Section 2B, the deceased's estate devolved upon her intestate heirs (in this case, her parents), disinheriting the applicant entirely.

The court upheld the constitutionality of Section 2B, affirming that the law aims to protect the rights of the deceased's intestate heirs in the absence of a clear and updated testamentary intention. The matter underlines the importance of not only updating your Will after a divorce but doing so promptly within the statutory time frame.

[Read the full judgment here](#)

## Take control of your estate

Divorce is a significant life event that should trigger an immediate review of your estate planning documents including your Will. By ensuring that your Will reflects your current wishes post-divorce, you can avoid unintended consequences and ensure that your estate is distributed according to your desires.

### ABOUT THE AUTHOR

By Jane Rushton is a Director in the Deceased Estates Department at Fairbridges Wertheim Becker

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