

The Importance Of Making A Will

“I don’t need a Will, my spouse gets everything anyway”

“I don’t need a Will because I’m not worth anything”

These are two very common misconceptions. Many people think that Wills are only necessary for people with a great deal of wealth, but this is not the case. There are certain laws governing how a person’s estate is divided if they die ‘intestate’ (i.e. without a Will), which might not be what you would expect or intend.

The intestacy rules determine who inherits your assets - they do not allow for you or your family to choose who receives your estate, which is distributed in accordance with the strict legal rules.

The dangers of dying intestate

The law governing intestacy has not been comprehensively reviewed for more than 20 years. However, the Inheritance and Trustees’ Powers Act 2014 (“the Act”), which came into force on 1 October 2014, made significant changes to the distribution of the deceased’s estate where there is a surviving spouse or civil partner.

The Act now provides as follows:

- ***If you are married/in a civil partnership and have children***

Old rules: Prior to 1 October 2014, where the deceased was survived by both a spouse or civil partner and issue, the spouse received the personal chattels, a statutory legacy of £250,000 and a life interest in half of anything that remained. The children or other descendants took the other half and the capital remainder after the end of the spouse’s life interest.

New rules: The Act simplifies this so that now, the surviving spouse will get £250,000 (known as the “statutory legacy”), all personal chattels, and half the balance of the remaining estate outright. Children or other descendants will share the other half of the balance.

Under the new legislation, the statutory legacy will be reviewed at least every five years. It will rise in line with the Consumer Prices Index and will be rounded up to the nearest £1,000. Interest is also payable on the statutory legacy from the date of death to the date when the amount is paid.

- ***If you are married/in a civil partnership and do not have children***

Old rules: Prior to 1 October 2014, where an intestate was survived by a spouse, but no issue, the spouse had to share the estate if it exceeded the statutory legacy of £450,000, with any surviving parent of the deceased person, or with full siblings if no parents survive.

New rules: The Act removes the entitlement of parents and siblings in this situation so that the surviving spouse of an intestate without issue will inherit the whole estate.

- ***If you are not married or in a civil partnership***

If you die without a Will, any unmarried partner would receive nothing under the intestacy rules. Your estate will pass to any children you have. If you have no children your estate will pass to your parents then siblings. If there are no close relatives, then your entire estate could pass to the Crown.

Other than the intestacy provisions, why else should I make a Will?

The reasons for making a Will are not just limited to avoiding the application of the restrictive intestacy provisions. They may include:

To appoint appropriate trusted executors who will act in the best interests of the beneficiaries.

1. To appoint guardians for minor children. Without a Will, guardians will be appointed by the court.
2. To clarify at what age minor beneficiaries should inherit.
3. To make appropriate provision for children.
4. To minimise any inheritance tax payable on death by taking full advantage of any reliefs and exemptions available.
5. To minimise administration costs and delays.
6. To state any funeral wishes.

For those who already have a UK Will

You should review your Will at regular intervals, say every five years. This will ensure the Will is appropriate to your changing family circumstances or changes in the law. For example:

- If your children marry or new grandchildren are born, they may not be covered by the existing provisions of your Will.
- If you are separated, but still married, the Will and any gifts made to your estranged spouse still stand, so he or she, and not any new partner, will benefit.
- If you are recently married and the Will was not made in contemplation of your marriage, the Will is automatically revoked.
- If your Will does not dispose of some assets, (for example because a named residuary beneficiary has predeceased you), then there will be a partial intestacy. That part of your estate not disposed of will be distributed in accordance with the intestacy rules.
- If there are any changes in the existing tax law, your existing Will may no longer be efficient.

How Rooks Rider Solicitors LLP can help

We have a multi-disciplinary team of Wealth Planning lawyers and we are very experienced in advising on and drafting Wills and supporting documents. Our proficiency in taxation allows us to give the fullest advice.

We are experienced in considering multi-jurisdictional estates and dovetailing Wills for individuals who have assets in many different countries.

For further information or to discuss any of the issues raised in this briefing note, please contact a member of Rooks Rider Solicitors' Wealth Planning team:



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