

Making a Will gives Peace of Mind

In Ireland about two out of three people die without having made a Will according to figures from the Probate Office. Very often the absence of a Will at death leads to legal difficulties and high administrative expenses to sort things out, especially where disputes arise. These are problems that could be avoided by a little bit of advance planning and a small fee.

The reason for making a Will is that it allows a person to decide who will benefit from their property, subject to some statutory limitations, after their death. Unfortunately, some people are reluctant to make a Will because they feel that death will soon follow. It is important to remember that all age groups should make a Will, and such advice is not confined to the elderly or those suffering from serious illness.

Benefits of making a Will

Firstly, if you are married with young children, it allows you to provide for them in the event of your death, not just financially, but it also allows you to appoint guardians. It allows you to plan for the future of a child suffering from a long-term illness should you die.

Secondly, it allows you to arrange the distribution of your property after death in the most tax-efficient manner – an obvious benefit to your next of kin.

Thirdly, where it is your wish, it allows you to support the Missions, your local church, or your favourite charity long after your death. Many people ask Missionaries of the Sacred Heart to arrange for Masses to be said for themselves and their deceased family members over a number of years.

Above all, a Will gives you peace of mind that your affairs will be managed after your death in the manner that you prescribe. It ensures that those whom you want to benefit from your possessions will benefit. A valid Will reduces the prospect of unfortunate but bitter and protracted disputes fought out in court with resulting very high costs.

Who can make a Will?

A person aged over 18 years and is of sound disposing mind can make a Will. Just because a person is elderly or feeble does not in itself mean that they are not of sound disposing mind. However, to reduce the likelihood of a challenge to a Will on those grounds, many solicitors nowadays will seek a doctor's certificate of competence, especially where the person is in hospital or in a nursing home.

Who is an Executor of a Will?

An Executor is the person you name in your Will as the person whom you want to administer your possessions after your death ensuring that your wishes are carried out legally.

How can you make a Will?

Whilst you can buy draft copies of Wills in good stationers, it is always best to consult a solicitor to ensure absolute validity, especially where property and estate is involved. A

solicitor will ensure that every angle is covered, and the fee is normally less than €100. The process is very simple. You simply tell your solicitor how you want your possessions divided after your death. This of course must be done bearing in mind the legal rights of spouse and children as set out in legislation.

Listing property in your Will does not prevent you from disposing of that property at any time. Likewise it does not prevent you from acquiring new property. It is always important to have a residuary clause in a Will because this will catch property not specifically named in the Will, and also property acquired in the future. Always remember that a Will takes effect only after your death. Two witnesses who have nothing to gain from it must sign your Will. Your solicitor will arrange for witness signatures.

Rights of Spouse and Children

The minimum rights of spouse and children are now set out in legislation. The principal pieces of legislation are The 1965 Succession Act, and the 1987 Status of Children Act.

How to leave something to a Charity

The first people to provide for in your Will are the members of your family, and any individuals who have been particularly kind to you. Then you could consider how you might help a charity, for example, the Missionaries of the Sacred Heart (MSCs). Again the process is very simple. Just ask your solicitor to include the following form of bequest in your Will: "I bequeath the sum of €___ to the Provincial Superior for the time being of the Missionaries of the Sacred Heart, Western Road, P.O. Box 23, Cork, for the charitable purposes of the Congregation".

In law there are three types of bequest you can make to a charity. These are a Pecuniary Bequest, i.e. a specific amount of money, A Residuary Bequest, i.e. the rest of your property, and a Specific Bequest, i.e. a particular item. By supporting our missionaries with a legacy, you can be guaranteed perpetual remembrance as a benefactor of our work, and ensure that this work will be carried on far into the future and long after your death.

Can a Will be changed?

Yes. A Will can be changed as often as you wish. Indeed, it makes sense to review your Will every few years as your circumstances change. When changing, it is obviously important that any former Will is revoked. This is normally done in the first clause of the new Will. You can also change your Will by adding a codicil, i.e. an addition or alteration that must be signed and witnessed. A Will made by a single or widowed person is revoked automatically on marriage to take account of the rights of a spouse and any children from the marriage. The exception is where the Will was made in contemplation of the marriage.

This article is merely an outline of what is involved in preparing and making a Will. Readers should seek the advice of a solicitor when making or changing a Will to cover their specific circumstances. Missionaries of the Sacred Heart will not be responsible for any action taken by anyone on foot of this article.