

## **WRITING YOUR WILL IN SCOTLAND: 10 TOP TIPS**

Writing a Will is the best possible way to provide for the people and causes you love, and let friends and family know how you'd like to be remembered.

Writing a Will doesn't need to be complicated or costly. This checklist will help you get your thoughts in order; and our free Will-writing service can help you make a simple Will for free.

### **1) List everything you own**

Your assets might include your home and any other properties or land you own, bank or building society accounts, savings, stocks, shares and other investments, business interests, insurance policies and pensions. You'll also need to mention valuable possessions such as your car, furniture, jewellery and other items of worth. You might find it helpful to get an up-to-date valuation for bigger assets before you write your Will.

You should also check how larger assets such as your house are owned. If they are owned jointly with someone else, you may need to seek legal advice to confirm if your share is to be dealt with under your Will or will pass automatically to the survivor.

### **2) Work out what you owe**

Your liabilities include any outstanding mortgage or rent payments, car finance agreements, credit cards, bank loans, business loans, school or college fees, or personal debts you might have.

### **3) Work out the value of your estate**

Subtract what you owe from the total value of your assets to get an idea of how much your estate is worth. Your estate will pay your funeral costs, any taxes due and any gifts left in your Will. What is left over is called the residue of your estate.

### **4) Decide who you'd like to provide for**

Think about the people and causes you'd like to provide for in your Will. When listing beneficiaries, include their full names and addresses so they can be identified easily. If leaving a gift to a charity, we recommend including their registered charity number.

### **5) Choose someone to carry out your wishes**

The people you appoint to carry out your wishes are called your Executors. They can be professionals (e.g. your lawyer or accountant) or trusted friends or relatives. Please check that they are willing to accept this responsibility before you name them in your Will.

There is no limit on the number of people you can appoint as executors.

## **6) Decide who will take care of your dependants**

You can appoint someone to be a guardian for your children if they are under the age of 18. That person will assume your parental rights and responsibilities.

Depending on the circumstances of your children or other relatives who may benefit under your Will, you may wish for their entitlement to be held in trust for their benefit. You should ask your solicitor for guidance.

If you have pets you should decide who will look after them and confirm how their care will be paid for.

## **7) Consider Legal Rights**

In Scotland, children and spouses or civil partners have an automatic claim on an estate, no matter what the Will says. This is known as Legal Rights.

Scots law distinguishes between heritable property (which means land and buildings) and moveable property (which means money, shares, cars, furniture, jewellery and all other assets). This distinction is important because Legal Rights can only be claimed from your net moveable estate. Heritable property is not included in a legal rights claim.

The extent of the legal rights claim depends on your family circumstances:

- a) Your surviving spouse or civil partner's legal rights claim amounts to
  - (i) one-third of the net moveable estate if you were survived by children or
  - (ii) one-half of the net moveable estate if you were not survived by children.
  
- b) Your children are collectively entitled to
  - (i) one-third of your net moveable estate if you were survived by a spouse or civil partner or
  - (ii) one-half of the net moveable estate if you were not survived by spouse or civil partner.

If one of your children dies before you leaving children of their own, then those children (i.e. your grandchildren) may claim legal rights.

Any person who has rights under a Will as well as a potential legal right claim has to choose between them; he or she cannot have both.

Legal Rights can be important if you leave a significant proportion of your estate, either as a legacy or as a share of the residue, to charity. If you have concerns about Legal Rights, you should seek specialist legal advice.

### **8) See a qualified legal adviser and check your draft Will carefully**

We recommend seeking professional advice from a wills and trusts solicitor as they can help you can consider your responsibilities and options.

You can find a solicitor through the Law Society of Scotland website (<https://www.lawscot.org.uk/find-a-solicitor/>) or our trusted expert partners can help you write a simple Will for free. See Using our free Will-writing service on p17.

When your adviser sends you the draft copy of your Will, read it carefully. If you spot a mistake, have questions or have changed your mind about something, don't be afraid to say so.

### **9) Signing and witnessing your Will**

Wills in Scotland should be signed by you at the bottom of every page in the presence of an independent witness. The witness signs on the last page only, adding his or her full name and address, together with the date and place of signing.

It is best practice for your witness to independent, so he or she should not be an executor or beneficiary under the Will.

A Will which is signed by you only the last page, and is not witnessed, could still valid under Scots Law. However, your Executors will need to take additional steps to make your Will acceptable to the Scottish Courts.

### **10) Keep your Will somewhere safe**

Store your Will safely and let your executors know where that is. Your Solicitor may be able to keep this for you. It is important as your original Will needs to be presented to the Scottish Courts.

Keeping your Will (and Letter of Wishes, if you've written one) with other important documents such as your birth certificate, marriage certificate, divorce papers, property deeds, insurance policies, bank and building society account details and your funeral plan will make things easier for your executors when the time comes.

## **YOUR LASTING LEGACY: ESSENTIAL INFORMATION**

A gift in your Will is part of the legacy you'll leave to the world. We know family and friends come first, so we're incredibly grateful to everyone who feels able to leave such a special gift.

### **Every gift can change a life**

Legacies come in all shapes and sizes. Lots of friends choose to leave us a share of their estate, known as a residuary gift and payable after debts and funeral costs have been settled and other legacies have been given. Residuary legacies can protect against partial intestacy, so it's a good idea to include one in your Will.

You can also leave a sum of money, known as a pecuniary legacy; or the specific gift of an item such as an antique, a piece of jewellery or a property. Cash gifts can be index-linked to protect their value over time.

### **A few small words can make a big difference**

If you'd like to remember us in your Will, here's some suggested wording your adviser might find useful.

#### **To leave a share of your estate**

I give .....% share/ all of my estate to Help for Heroes (Registered charity number SC044984) of 14 Parkers Close, Downton Business Centre, Salisbury, SP5 3RB to be used for its general and charitable purposes.

#### **To leave a cash gift or specific item**

I give the sum of £...../the specific item of my ..... to Help for Heroes (Registered charity number SC044984) of 14 Parkers Close, Downton Business Centre, Salisbury, SP5 3RB to be used for its general and charitable purposes.

### **How your legacy will be used**

Most of our friends leave gifts to our general funds so they can be used where the need is greatest. If there's a particular type of work or geographical region you'd especially like to support, please call 01725 514965 or email [Legacies@helpforheroes.org.uk](mailto:Legacies@helpforheroes.org.uk) so we can discuss your wishes and help you.