



HOLMES O'MALLEY SEXTON, SOLICITORS

A GUIDE TO DRAFTING YOUR WILL

HOMS Wills – Simple Estate Planner

Find more information on Wills, Estates and Enduring Powers of Attorney at www.homswills.ie

A Will is not something that should be done at the last minute. It is an important document that should be given a lot of thought to ensure that your loved ones are provided for in the best possible way after your death.

What are “assets”?

This includes everything that you own at the date of your death e.g. house, land, shares, bank accounts, credit union accounts, saving certificates and bonds, life insurance, car, jewelry, etc.

Why have a Will?

A Will provides for how your assets will be distributed on death. The best way to make sure your assets are distributed in accordance with your wishes is to make a Will. A well drafted Will ensures that those whom you intend to benefit are provided for in the most effective and tax efficient way possible. A properly executed Will:

1. Appoints executors, who will administer your estate.
2. Appoints guardians of your minor children and trustees of any entitlement that they may benefit by.
3. Appoints who is to benefit e.g. a spouse, partner, children, parents, brothers and sisters.
4. Incorporates tax planning to prevent/reduce inheritance tax.
5. Provides a mechanism to provide for dependents, especially those with special needs.

A Will can take into account if an intended beneficiary, e.g. spouse/partner dies before you and you can make provision for others in that event.

If You Die Without a Will

If you die and you have not made a Will (or have not made a valid Will) you are said to have died intestate. Your assets will be distributed to your surviving relatives in accordance with the law under the Rules of Intestacy. It is important to note that the Rules of Intestacy are a strict set of provisions where there is no provision to take into account a person's wishes.

Your family and loved ones depend on you. They depend on you to make a Will. As your circumstances change, both family and financial, so should your Will e.g. marriage, children, wealth increase, tax changes.

Appointing Executors

Once you have made the decision to make your Will, you will also, when the time comes, want to ensure that your estate is administered in a quick and efficient manner. The responsibility of administering your estate falls to the executors. The appointment of executors is made in your Will. While you can appoint one executor in your Will, it is advisable to appoint two, so that if one of your executors dies before you do, the surviving executor can take on the responsibility of administering your estate by distributing your assets according to your wishes.

Duties of the Executors

The duties of the executor(s) are to:

- Ascertain the assets of your estate, ensure that the assets of the estate are protected, e.g. ensure all property comprised of in your estate is insured.
- Prepare a schedule of relevant assets and obtain valuations for the assets of your estate.
- Ascertain all liabilities of your estate.
- Obtain a form from the Probate Office and gather in all the assets of the estate.
- Ensure that all of your debts, e.g. funeral expenses, are paid out of money in the estate.
- Distribute the assets of your estate as per the terms of your Will and to those who have certain rights in relation to your estate. This is dealt with in more detail at www.homswills.ie.

The duties are onerous from a legal, financial and taxation point of view. Executors should ensure that they obtain professional advice to avoid legal pitfalls.

How Can We Help?

Our firm takes particular pride and commitment in helping our clients with their personal affairs.

We strongly recommend to all our clients and their families that they have a Will that:

- **Reflects the needs of their dependants; and**
- **Is up to date with current tax legislation and their asset portfolio.**

Robert Bourke, Partner, and Caroline Browne, Solicitor, are the solicitors in charge of this important area. They are committed to:

- **Listening to your needs.**
- **Offering you the best professional objective advice.**
- **Drafting your Will, having given you the opportunity to make informed decisions.**

Please contact us to make a new Will or to update your existing Will.

Information we need and details you should consider before instructing us to draft your Will

Your Will is a confidential document and the contents of your will and this form will not be disclosed to any person.

Personal Details

Please tick appropriate box (✓) where applicable

Name

Address

Telephone

Mobile

Have you previous made a Will? Yes ☐ No ☐

Date of Birth / /

Occupation

PPS No.

Marital Status

Single ☐

Partner's Name

Married ☐

Partner's Address (if different from your own)

Widowed ☐

Separated ☐

Divorced ☐

Previous Spouse's Name (if applicable)

Executor's Names**Executor's Addresses****Relationship to you**

<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

Children's Details

Full Name

Address (if different from your own)

<hr/>	DOB / /	<hr/>
<hr/>	DOB / /	<hr/>
<hr/>	DOB / /	<hr/>

If any of the Children are minors (under 18) please complete the following:-

Guardian's Names

Guardian's Addresses

<hr/>	<hr/>
<hr/>	<hr/>

Trustee's Names

Trustee's Addresses

<hr/>	<hr/>
<hr/>	<hr/>

Bequests

Name of Beneficiary	Address	Gift you wish to bequeath in your Will

Notes for your solicitor

Have you made any previous gifts to the beneficiaries you wish to benefit in your will?

Yes☐

No☐

If yes please give details

List of Assets This page can be kept with your Will.

House

Property in Sole or Joint Names

Mortgage Yes ☐ No ☐

Financial Institution

Other Property or Land Please ensure that you include details of all properties also held in joint names.

Location of Title Deeds

Cars and other vehicles

Bank Accounts

Life Insurance Details

Company Name	Policy Number
Location of Policy Documents	Amount

Shareholdings

Pension Details

Name of Company	Policy Number
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Foreign Assets

Accounts	Property

Additional Assets This page can be kept with your Will.

Other Assets

(e.g. Prize Bonds, Saving Certificates, Credit Union Accounts*)

***you may have completed a nomination form in respect of your account**

List of Liabilities

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins or other markings on the paper.

ADDITIONAL PAGES CAN BE ADDED TO THIS FORM AS IT IS IMPORTANT
TO DEAL WITH ALL OF YOUR ASSETS IN YOUR WILL.

GLOSSARY OF TERMS

Administrator

If you do not leave a Will, or make a Will and do not appoint an executor, or where the executor named in a Will is unable or unwilling to act, the person appointed to administer your estate is known as the administrator.

Beneficiary

A person who receives a gift in your Will or a share of your estate on intestacy.

Bequest

A gift left to a beneficiary in your Will. The gift can be an object or property, a specified sum of money or what is left of your estate once all of the other gifts have been distributed.

Estate

All of your assets and liabilities at the date of your death.

Executor

A person you appoint to administer your estate

Grant of Probate

This is a High Court document which gives validity to the Will and confirms the Will as the last Will of the deceased. The Grant of Probate authorises someone to deal with a deceased person's estate. The executor of the estate applies for the Grant of Probate. Where there is no Will the administrator applies for Letters of Administration Intestate.

Guardian

If you have young children you should appoint guardians to look after your children in the event of your death when the other parent has predeceased you or where both parents die in a common circumstance. It is important to note that where you are survived by the other parent, in the majority of cases, the surviving parent is the legal guardian of the children.

Inheritance Tax

A tax which arises where a beneficiary receives a gift in a Will or on intestacy when someone dies. The amount of inheritance tax payable is determined by a number of factors e.g. the amount you receive, your relationship to the deceased person, whether you received any previous gifts etc. See www.homswills.ie/probate-inheritance-tax for more details.

Intestacy

The legal term used when someone dies without making a Will.

Minor Child

A child who is under the age of 18 at the time of your death.

Personal Representative

A common term used to describe the person who administers your estate; also known as an executor when they are appointed in a Will or an administrator when there is no Will.

Residuary Clause or Residuary Bequest

This is the section in your Will that sets out how the remainder of your estate, not dealt with in the Will, should be distributed. It is an important clause in a Will.

Trust

An arrangement to manage a bequest which can be used in the case of minor children or those with special needs.

Trustee

A person you appoint to manage a trust created in your will according to the terms of the trust as outlined in your Will.



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