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# MAKING A WILL

## WHAT YOU NEED TO KNOW

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## WHAT IS A WILL?

A will is a witnessed **document that sets out in writing the deceased's wishes for his or her possessions**, (called his or her 'estate'), after death. You can make as many wills as you like throughout your life but the only one that will be valid on your death will be the most recent one you made prior to your death. All wills you created before this one will not have any legal standing.

## WHY SHOULD YOU CREATE A WILL?

It is important for you to make a will because if you do not, and die without a will, the law on intestacy decides what happens to your property. A will can ensure that proper arrangements are made for your dependants and that **your property is distributed in the way you wish** after you die, subject to certain rights of spouses/civil partners and children.







## MISTAKES TO AVOID

- **Marriage revokes a will but divorce doesn't** – if you get divorced and your beneficiaries change make sure you create a new will
- Don't forget any wills you may have created in other countries – **a revocation clause revokes all your previous wills**, your foreign wills will be revoked too and this may not be what you want
- **Keep your will safe** – if your will is destroyed it will cause a problem

## COSTS INVOLVED IN MAKING A WILL

**Making a will with a solicitor is not expensive** (often only a couple of hundred euro) and is well worth it to ensure that everything is done correctly and your wishes will be carried out after your death. The expenses incurred in administering your estate will be deducted from the estate along with the funeral expenses before any gifts are given out under the will.

## THE REQUIREMENTS OF A VALID WILL

- The will must be **in writing**.
- You must be **over 18** (if you are or have been married you can be under 18)
- You must be **of sound mind**
- You must sign or mark the will or acknowledge the signature or mark in the presence of **two witnesses**.
- Your two **witnesses must sign** the will in your presence.
- Your two witnesses **cannot be people who will gain** from your will and they must be present with you at the same time for their attestation to be valid.
- The witnesses' spouses/civil partners also **cannot gain from your will**.
- Your **witnesses must see you sign** the will but they do not have to see what is written in it.
- The signature or mark must be at the **end of the will**.





## WHAT HAPPENS IF YOU DIE WITHOUT A WILL (OR YOUR WILL IS INVALID)?

**A person who dies without a will is said to have died 'intestate'.** If you die intestate, this means your estate, or everything that you own, is distributed in accordance with the law by an administrator. To do this, the administrator needs permission in the form of a Grant of Representation. When a person dies without a will or when their will is invalid, **this Grant is issued as Letters of Administration by the Probate Office or the District Probate Registry** for the area in which the person lived at the time of death.

## A LEGACY AND A DEVISE IN A WILL: WHAT'S THE DIFFERENCE

A **legacy is a piece of personal property**, like a piece of jewellery, which you want to leave to loved one. A **devise is a real property** that you want to leave to a loved one. Here are some of the different types of legacies:

- **General** – a gift you can leave that will come out of your estate once all your debts are paid, any tax you owe is settled and all your specific legacies are taken into account
- **Specific** – a specific gift you want to leave to someone, such as a vehicle
- **Conditional** – this legacy has a condition that goes with it and the heir has to fulfil that condition to receive the gift
- **Charitable** – you must identify the charity you wish your legacy to go to





If you have a query with regard to any of the above or in relation to making a will then we would be happy to discuss it with you. There is no charge for a consultation to discuss any potential claim.

Please feel free to email our team on **info@croninlaw.ie** with any questions or concerns you may still have about the claims process or call and speak to our Wills & Probate team on:

**01 895 8550**

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