

# THE REALLY SIMPLE SHORT USEFUL GUIDE TO MAKING/REVIEWING A WILL, ENDURING POWER OF ATTORNEY AND ADMINISTERING AN ESTATE

*Based on over 25 years of  
giving Practical legal advice*

---

**BY RICHARD LEE AND JILL LEE, SOLICITORS**

# MAKING OR REVIEWING YOUR WILL

Wills should be clear and simple. A typical family Will would be a spouse/partner leaving everything to their spouse/partner and then everything equally to their children. Where there are family members with special needs then a simple form of discretionary trust should be used.

A spouse/partner and children have rights and their entitlements need to be considered. Where you have children under 18 years of age you should appoint legal guardians and trustees in your Will.

When considering who to include in your Will a good approach is to remember the people to whom you have a responsibility and those that are close to you (and maybe charities)

Inheritance Tax is an important consideration. There is no inheritance tax between spouses. There may however be tax liabilities between partners depending on circumstances. Children are currently allowed €320,000 tax free (Group A). Brothers/sisters/nieces/nephews (Group B) have a threshold of €32,500 and friends and non-relations (Group C) have a threshold of €16,250 after which tax is then charged at 33% on anything over these thresholds. The thresholds are cumulative with gifts and inheritances being added together in each category since the 5th December 1991 (excludes small gifts).

Wills are not disputed too often but where they are challenged the grounds would often be that the Will was not validly made or a legal entitlement was over-looked or undue influence/pressure was placed on the person making the Will or that he/she was not of sound mind when making the Will.

Property can sometimes be gifted prior to death. For spouses/partners consideration should be given to putting property into joint names (including bank accounts) with the intention that on a death the property would pass automatically to the survivor.

When you have made a Will it is important to let your family/executors know that you have made a Will and where it can be found. You don't have to let anybody know what is in your Will unless you so choose but a Will becomes publicly available after it has been probated.

## **What you need to give to your Solicitor**

1. Your name, address and date of birth
2. Name and address of your spouse/partner (if any)
3. Name, address and ages of your children (if any)
4. Name and address of person/s you want to administer your estate
5. Names and addresses of guardians/trustees if you have children under 18 years.
6. Your PPS Number
7. Whether your family home (if any) is in your name or jointly in the name of you and your spouse/partner
8. Name and Addresses of person/s to benefit
9. Details of any special circumstances

# **MAKING A GENERAL POWER OF ATTORNEY OR ENDURING POWER OF ATTORNEY**

These are important legal documents which facilitate trusted family members and friends look after your affairs subject to any limitations that you might impose.

A normal power of attorney means that another person has your authority to look after your affairs for you but this comes to an end on your death or should you lose mental capacity.

An Enduring Power of Attorney permits a trusted family member/friend to look after your affairs for you should you lose your mental capacity for any reason such as head injury, stroke or dementia. Enduring Powers of Attorney are particularly useful in terms of providing peace of mind in that they provide a safety net. You can appoint one or more persons to look after your affairs and the important thing is that you appoint one or more people who know you well and who you trust.

## **What you need to give to your Solicitor**

1. Your name, address and date of birth
2. Name, address and date of birth of spouse/partner and children, if any
3. Name and address of person/s you want to look after you, called your Attorney
4. Name and address of 2 persons you want to be your Notice Parties (keep an eye on things)
5. Name and address of your Doctor/GP
6. Details of any special circumstances

# **PROBATE AND ADMINISTRATION OF ESTATES**

After somebody dies their affairs need to be put in order. The majority of people will have made a Will. The Will will have appointed an Executor who will take charge of things. In the minority of cases where there is no Will (known as Intestacy) the Succession Act sets out entitlements and who is to take charge.

After a death it is important that a period of grieving is allowed so that people can come to terms with their loss. Often a Will will not be opened until after a funeral. For this reason funeral and burial/cremation directions should be included in a Letter of Wishes and given to immediate next of kin.

It is the job of the Executor/Administrator to firstly protect the assets of a deceased, pay off outstanding bills and then distribute the Estate to the beneficiaries in accordance with the Will and where there is no Will then distribution is in accordance with the Succession Act.

Executors should make sure that appropriate insurance cover is kept/put in place for property, cars and assets. This can be an issue particularly if property has become vacant.

Where there is a Will the Executor needs to validate and probate the Will which he/she can do with the assistance of a solicitor or by personal application to the Probate Office. Where there is no Will then Letters of Administration are obtained from the Probate Office. Once Probate or Letters of Administration are obtained then the Executor/Administrator can proceed with administering the Estate which involves collecting in the assets, paying the bills and distributing the estate to the beneficiaries.

Tax is an important consideration for Executors/Administrators and appropriate tax advice should be taken particularly where there are non-resident beneficiaries. Often solicitors where they are involved in the administration of an estate will pay the inheritance to beneficiaries on a net of tax basis and file appropriate returns. Inheritance Tax is a self-assessment tax which means that the onus to pay the tax is on a beneficiary but a secondary liability may attach to the Executor particularly where a beneficiary resides outside the country.

Where land and property is gifted to a beneficiary it is important that the Executor/Administrator signs a Deed of Assent to the vesting of the property in the beneficiary which is sometimes overlooked.

### **What you need to give to your Solicitor**

1. Original Will (if a Will was made and details of next of kin if not)
2. Original Death Certificate
3. PPS Number of Deceased
4. Names/Addresses/PPS Numbers of beneficiaries
5. Details of property, bank accounts and assets owned by the deceased.
6. Details of any property/accounts held in joint names with the deceased.
7. Details of all debts and liabilities of the deceased
8. Original Title Documents/Life Policies/Savings Bonds etc
9. Details of any special circumstances

## **REALLY USEFUL WEBSITES**

[www.citizensinformation.ie](http://www.citizensinformation.ie)

Citizens Information

[www.Revenue.ie](http://www.Revenue.ie)

Revenue Commissioners

[www.courts.ie](http://www.courts.ie)

Courts Service of Ireland

[www.leesolicitors.ie](http://www.leesolicitors.ie)

Lee Solicitors

## ABOUT THE AUTHORS

Richard Lee is a practising Solicitor with over 28 years experience and holds a Master of Laws in Advanced Legal Practice.

Jill Lee is a Practising Solicitor who qualified as a Solicitor over 20 years ago.

Both Authors are strongly of the view that when you obtain legal advice that it should be easy to understand and practical.

For more information or details of fees please contact Richard Lee or Jill Lee at (01) 2960931 or [richardlee@leesolicitors.ie](mailto:richardlee@leesolicitors.ie) or [jill@leesolicitors.ie](mailto:jill@leesolicitors.ie)

*This booklet is for general information purposes only and does not constitute legal advice. If you have a legal query then you should obtain specific legal advice. Given the general nature of the information provided in this booklet no liability is accepted by the Authors*