



September 2006

Key Points:

- Replaces previous version dated August 2005

Making your will

This factsheet is aimed at people aged 60 and over.

As Scottish law differs from English law readers living in Scotland can obtain a similar Factsheet 7s, *Making your Will*, available by phoning 0800 00 99 66 (free call); from the website: www.ageconcernscotland.org.uk; or by writing to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ.

Contact details for Age Concern Scotland are:

Causewayside House, 160 Causewayside, Edinburgh EH9 1PR, tel: 0845 125 9732 (local call rate).

Those living in Wales or Northern Ireland may wish to contact:

Age Concern Cymru, Ty John Pathy, Units 13/14 Neptune Court, Vanguard Way, Cardiff CF24 5PJ, tel: 029 2043 1555 (national call rate); website: www.accymru.org.uk;

Age Concern Northern Ireland, 3 Lower Crescent, Belfast BT7 1NR, tel: 028 9032 5055 (national call rate), Monday to Friday, 9.30am - 1pm, website: www.ageconcernni.org.

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1. Making your own will

Except in the simplest cases it is generally advisable to engage a solicitor to make a will. If, after your death, there turns out to be a problem with the drafting or formalities of the will this may prevent your wishes being carried out. You can make your own will and pre-printed will forms are available from stationery shops.

The beginning of the will should state that this will revokes all others. If you have an earlier will this should be destroyed.

The will should name executors who will deal with (administer) your estate (see Section 4). Your estate includes all money, property and possessions owned by you. Sufficient details should be given of any possessions being bequeathed and of the beneficiaries receiving them that both can be identified (for example, beneficiaries should be identified by their full names and relationship to you). The remainder of your estate which is left once any specified gifts have been made is known as the residue. Provision should be made for the eventuality of one or more of the beneficiaries predeceasing you.

2. Witnessing the will

Your signature to the will must be correctly witnessed by two competent and independent people, present at the same time, who should sign in your presence. The witnesses and their husbands, wives or civil partners must not benefit from the will, so it is important to select the witnesses from people who will not receive any benefit from it.

3. Going to a solicitor

Unless your will is going to be very simple it is be advisable to consult a solicitor. This is even more the case if you intend to leave significant sums to people other than those who might expect to inherit; eg husband, wife or children. A solicitor may be prepared to visit you in your own home, care home or hospital. The cost of making a will varies according to its complexity. Ask at the outset what the cost will be.

The Citizen's Advice Bureau (CAB) may be able to offer suggestions on local solicitors. Citizens Advice Bureaux are listed in the telephone directory. The local public library may have a copy of the Solicitors' Regional Directory.

You may be able to get free advice and assistance with making a will under the legal help scheme. This assistance is only available to people whose income and capital are below certain limits and who satisfy certain non-financial requirements such as being aged 70 or over, or who are blind (or partially sighted), deaf (or hard of hearing) or without speech, or who suffer from a mental disorder of any description, or are substantially and permanently handicapped by illness, or congenital deformity.

Community Legal Service Direct, tel: 0845 345 4345, (lo-call rate), website: www.clsdirect.org.uk should be able to provide a list of solicitors in your area who participate in the legal help scheme.

4. Appointing an executor

You should choose an executor to carry out your wishes, as stated in the will. Executors can be beneficiaries under the will and often people appoint their spouse, civil partner or children as executors. Check with your proposed executors that they are willing to take on this role before naming them in your will. Consider naming more than one executor in case one dies before you. The executors may have to deal with any day to day administration of your estate in the period before it can be distributed. Executors can claim from the estate for expenses incurred in carrying out their duties.

If the estate is large or complicated, there may be advantages in appointing a professional executor such as a solicitor, accountant or bank manager. A professional executor will charge for the work that they do and these costs will have to be met from your estate. Ask for details of the likely costs before appointing the executor to check that you are comfortable with them.

The Public Trustee can also be act as an executor. It may be appropriate to appoint the Public Trustee as executor if there is no one else able and willing to act as executor or where a beneficiary is an incapacitated adult or dependent child likely to outlive both parents and other close relatives.

The appointment of the Public Trustee as Executor is not recommended in straightforward estates likely to be distributed immediately to one or two beneficiaries. Further information is available from the Official Solicitor and Public Trustee Office, 81 Chancery Lane, London WC2A 1DD, tel: 020 7911 7127, website: www.officialsolicitor.gov.uk.

5. Revising the will

Codicils (supplements to a will) can be added to an existing will for minor changes. These must be correctly witnessed but the witnesses need not be the same as for the original will. If anything substantial needs to be changed you should make a new will revoking the former one.

NEVER make alterations on the original document. Any change must be by codicil or a new will.

If you marry, remarry or enter into a civil partnership your will becomes invalid unless it was made in contemplation of marriage or partnership (that is, you were intending to marry when the will was made and it refers to your proposed marriage) and should be revised. Divorce does not automatically invalidate a will.

6. Where to keep the will

It should be kept at home safely with important papers or lodged with a solicitor or a bank. A bank may make a charge for this service. It can be lodged for safe keeping at the Probate Department at the Principal Registry of the Family Division, First Avenue House, 42-49 High Holborn, London WC1 6NP, tel: 020 7947 7022, website: www.courtservice.gov.uk. A fee of £15 is charged when the will is deposited.

Where solicitors make a will, they normally keep the original and send you a copy. You are entitled to the original if you wish to hold it. It is important to keep the original will safe.

Age Concern publishes a leaflet, *Instructions for my next of kin and executors upon my death* (Ref: IS/18), which can be left in a convenient place to tell your family where all your important documents are, including your will.

Make sure that you list all sources of savings and investments. This leaflet is available by telephoning 0800 00 99 66 (free call) or write to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ.

If you have particular views about your funeral write a letter to your Executor explaining how you would like it conducted, and lodge this with your will.

7. Taxes on your death

Inheritance Tax (IHT) is payable on estates whose value exceeds a certain value. For the 2006-2007 financial year the IHT threshold is £285,000. Anything left to a wife, husband or civil partner is taken off the value of your estate for the purpose of calculating IHT liability providing you are both permanently resident in the United Kingdom. There are also exemptions for certain gifts. The value of non-exempt gifts made during the previous seven years may be taken into account in whole or in part depending upon how recently the gift was made.

Further information about Inheritance Tax can be found in leaflets IHT3, *Inheritance Tax: an introduction*, and IHT14, *Inheritance Tax: the personal representative's responsibilities*, which can be obtained from your local tax office or the Capital Taxes Orderline on 0800 20 30 900 (free call). They can also be downloaded from Her Majesty's Revenue and Customs' website at www.hmrc.gov.uk/leaflets.

8. What happens if you do not make a will

If you do not make a will, you die intestate and your property will be divided according to the *Administration of Estates Act*. The way the rules apply to your estate depends upon which relatives survive you. A brief indication is given below, but seek further advice if you are in this situation.

If you are married or have a civil partner and have children, your spouse or civil partner will be entitled to at least the first £125,000 of the estate and all of your personal possessions. Surviving children or grand-children will be able to claim some of the estate if it exceeds £125,000.

If you are married or have a civil partner and do not have children, your spouse or civil partner will be entitled to at least the first £200,000 and all the personal possessions. Anything else is divided between your spouse or civil partner and your other surviving relatives.

9. Further Information

The following books may be available from your local library:

What to do when someone dies – Price £11.99

Wills and probate – Price £11.99

Both available from Littlehamptons Book Services, Mail Order Dept, PO Box 4264, Durrington, Worthing, Sussex BN13 3TG, tel: 01903 828 503.

IR45: Contacting the Inland Revenue when someone dies

IRT3: Inheritance tax – An introduction

The above leaflets are published by HM Revenue & Customs and should be available from local tax offices, website:

www.hmrc.gov.uk/leaflets/catalogue.

10. Further Information from Age Concern

The following factsheet may be of use:

Factsheet 14 *Dealing with someone's estate*

Book/Publication

Understanding taxes and savings – Making the Most of your Money - Price: £7.99 and is available from Age Concern Books. To order, please telephone our hotline (9am-7pm Monday to Friday, 9am-5pm Saturday and Sunday): **0870 44 22 120** (national call rate), or visit our **website: www.ageconcern.org.uk/bookshop** (secure online bookshop).

If ordering by post, please send a cheque or money order, payable to Age Concern England, for the appropriate amount plus p&p to Age Concern Books, Units 5 & 6, Industrial Estate, Brecon, Powys LD3 8LA.

(Postage and packing: mainland UK and Northern Ireland: £1.99 for the first book, 75p for each additional book up to a maximum of £7.50. Free on orders over £250. For customers ordering from outside the mainland UK & NI: credit card payments only; please telephone the hotline for international postage rates or **email: sales@ageconcernbooks.co.uk**).

If you would like

- to find your nearest Age Concern
- any additional factsheets mentioned (up to a maximum of 5 will be sent free of charge)
- a full list of factsheets and/or a book catalogue
- to receive this information in large print

phone 0800 00 99 66 (free call) or write to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ. For people with hearing loss who have access to a textphone, calls can be made by Typetalk, which relays conversations between text and voice via an operator.

Age Concern's series of over 40 factsheets is available as a subscription service to those whose work involves older people. For details please call 020 8765 7200 (national call rate) and ask for our factsheet subscription leaflet.

Age Concern provides factsheets free to older people, their families and people who work with them.

If you would like to make a donation to our work, you can send a cheque or postal order (made payable to Age Concern England) to the Personal Fundraising Department, ACE Freepost CN1794, London SW16 4BR.

Find out more about Age Concern England online at:
www.ageconcern.org.uk.

Please note that the inclusion of named agencies, companies, products, services or publications in this factsheet does not constitute a recommendation or endorsement by Age Concern. Whilst every effort is made to ensure accuracy, Age Concern cannot be held responsible for errors or omissions.

No factsheet can ever be a complete guide to the law, which also changes from time to time. Therefore please ensure that you have an up to date factsheet and that it clearly applies to your situation.

Legal advice should always be taken if you are in doubt. (*Age Concern England is unable to give financial or legal advice*).

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