

# Separating or Divorcing



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## Separating or Divorcing - Have you made a Will?

### Have you made a Will?

If you don't have a valid Will, the law decides who inherits your estate after you die. Your estate is everything you own – your house, money, investments, personal belongings such as jewellery, etc. Making a Will is a simple and cost-effective way of securing where your estate goes.

### If you don't have a Will

Separating from your spouse? He/she will be entitled to a large part of your estate should you die before the divorce process is completed!

### Children?

If they are **not** your natural or adopted children they will **not** inherit at all. Make a Will to guarantee they inherit, the age they inherit and to appoint Guardians who will be responsible for their inheritance until then.

### Spouse and children?

Your spouse will be entitled to the first £250,000\* of your solely owned assets and all your personal belongings. Any solely owned assets in excess of £250,000 will then be divided into two. One half will pass equally between your children once they are 18. The other half will be invested by your spouse or civil partner.

### No children or spouse?

The law will pass your estate to your nearest blood relatives. Do you want your parents, brothers and sisters, aunts, uncles and cousins and even more distant relatives to inherit your estate?

### Inheritance Tax?

The first £325,000 of everything you own (including your share of jointly owned assets) is not subject to Inheritance Tax. Above this figure, Inheritance Tax may be payable at 40%. (Although your estate may also be eligible to claim the additional residence nil rate band relief). A Will can often be used to assist in the reduction of any tax payable.

\*All figures correct 2019/2020

## Jointly owned assets

Bank accounts, investments and your house are the types of assets which are often owned jointly, particularly with a spouse or partner. With nearly all of these assets the other joint owner(s) will automatically inherit them if you die. This is regardless of any Will you may have made. It is possible to change the way your share of the relevant asset passes after your death, by completing a document called a Notice of Severance. Your share of the asset will then pass under the terms of your Will.

## I have a Will – does it need revising?

Was the Will completed correctly after expert advice? Are you still happy with your previous decisions about where your estate will go?

## Is the Will still valid?

For example, when did you make the Will? If you married after making your Will, that Will is no longer valid unless it specifically included a clause contemplating that marriage. If the Will isn't valid, you will be treated as dying without a Will.

Did your Will leave part of your estate to a spouse from whom you are now separated? They will continue to benefit under the Will, until decree absolute or final dissolution is obtained. Do you still want them to inherit? If you do not, your Will needs to be changed immediately.

After decree absolute a spouse is automatically "removed" from your Will. Do you still wish then to receive part of your estate or be responsible for any part of the administration of your estate (for example, looking after money for children)? If so you will need to change your Will.



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