WWF

for a living planet

Scotland

Your guide to making and updating a Will

Looking after your loved ones

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WWF

WWF's mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature, by:

- conserving the world's biological diversity
- ensuring that the use of renewable resources is sustainable
- reducing pollution and wasteful consumption

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To help get you started...

Making a Will is the best way to be sure of what will happen to your property and possessions after your death.

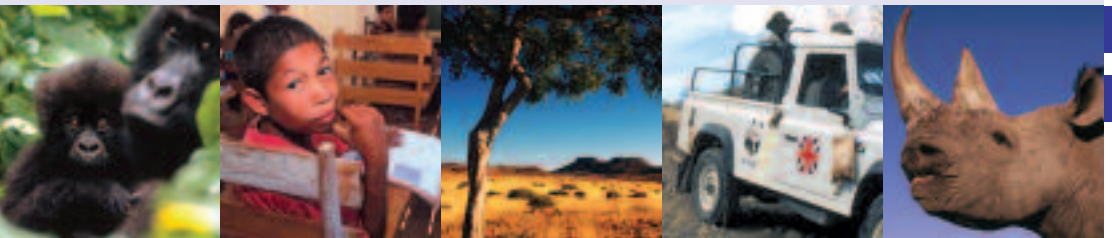
If you're married, and especially if you have young children, a Will can make absolutely sure that your family are provided for.

Even if you have no family, you will still want to ensure that your possessions go where you wish – perhaps to friends or to charities that you have supported during your lifetime.

Whatever you decide, to help get you started we've put together this useful booklet, which includes everything you need to know about making a Will in clear terms and plain language. It also tells you how to keep tax to a minimum, and lets you know how to leave a gift to WWF-UK, if that is what you would like to do.

If you choose to leave us a gift you can help support our essential work in Scotland. This includes protecting Scottish rivers and seas, finding natural solutions to flooding, and sharing knowledge and skills that will give Scottish people, livelihoods and wildlife a more positive environmental future.

Whatever you decide, we hope you find this booklet helpful.



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Why making a Will is so important

If you die without making a valid Will, your estate will be sorted out in terms of the rules of intestacy. In most cases, your estate will pass to your next of kin, but in the proportions determined by the rules of intestacy. These may not be what you would wish.

If someone dies without a Will, steps have to be taken to look at your family tree and trace all relatives with a legitimate claim. This can be complex, time-consuming and costly, all paid for by your estate.

Married couples

Many married people assume that, when they die, everything will pass automatically to their spouse. This is not necessarily the case and, sadly, it is a misunderstanding that can cause serious hardship to the wife or husband who is left behind.

You can easily imagine the kind of problems this can create. The question of "who gets what" can lead to complicated legal disputes. The surviving spouse may have to wait months or even years for the whole tangle to be sorted out – and this could result in expensive legal fees.

None of this need happen if you make a proper Will. In your Will you can make plain what your wishes are. If you want all your possessions to go to your wife or husband, you can state this clearly. To leave no room for doubt, and to make things easier when one of you dies, you and your partner should each make your own separate Will.

Unmarried couples

If no Will has been made, the law is even harder on the surviving unmarried partner. Whether or not there is a Will, in many cases the surviving partner will have no claim on the estate of the deceased. A Will is therefore even more important in such cases, as well as ensuring that property which is intended to be shared is in the partners' joint names.

Civil partnerships

Under the Civil Partnership Act 2004, same sex couples who have registered their civil partnerships have the same rights and Inheritance Tax advantages as spouses within a marriage.

Providing for children

If you have children, your Will is the only sure way of providing for them after your death. This is especially important for young children.

It is not just a matter of what will happen if you die. You also need to consider how your children will be looked after if both parents die while the children are still young.

Through your Will, you can provide for their financial future. And you can nominate guardians who will be responsible for the welfare and upbringing of the children if they lose both their parents.

By law your children cannot be totally excluded from inheriting a portion of your estate. They have what is known as their 'Legal Rights' which they would be able to claim if, by doing so, they would receive more than is left for them in your Will. This claim is to a share of your moveable estate (that is, everything except land and buildings), either one-third between them (where there is a surviving spouse) or one-half between them (where there is not).

Other people you may wish to help

There may be other people you want to remember in your Will. Only by making a Will can you be sure that a friend or relative will receive the particular piece of furniture or jewellery – or sum of money – that you would like them to have after your death.

The same applies to gifts to organisations. For example, if you would like to benefit a charity, you would have to leave clear instructions to that effect.

What if you have no immediate family?

Even if you have no relatives you want to provide for, it is still important to leave a Will.

If you die without making a Will, and without any living relatives, everything you leave behind will go to the government, and any opportunity for helping friends or organisations will have been lost. An exhaustive search for relatives, however remote, would still have to be undertaken.

Domicile

To make a Will in Scotland in terms of the law, you should be a domiciled Scot. You can have Scottish domicile by any one or more of the following:

- your being born in Scotland;
- your being of a Scottish mother or father (or both);
- your being married to a Scot; or
- your living in Scotland, with an intention to live here permanently (even if you do not in fact do so at some stage in the future – provided that you intend at present to continue living here in the future) and choosing to be a Scot.

If none of the above apply, you should consider drawing a Will in terms of the law of the country where you do have a domicile.

If you have property in more than one country, you may need to draw a Will in each country and specific advice would be needed.

How to make a Will

It is not expensive to make a Will: the cost for a simple Will can start from £60. Nor need it be complicated or time-consuming. A well-drawn Will can often save a lot of tax.

But it is very important that you do the job properly. A home-made Will may not stand up in law and it may cost in legal fees to have it sorted out after your death.

That is why your best plan is to go to a legal adviser and receive reliable professional advice.

What to do before you see your legal adviser

You can save time – and, therefore, money – by getting a few facts and figures ready before you go to see your legal adviser.

First, write down the names and addresses of all the people (or organisations/charities) to whom you wish to leave money or gifts. Second, make a list of everything you own and what you estimate each is worth (assets). Third, subtract from your total any money you owe (liabilities).

Assets

House: present value	£
Car	£
Savings and cash	£
Stocks, shares, unit trusts etc.	£
Insurance policies	£
Pension benefits	£
Bank and building society accounts	£
Furniture and household effects	£
Jewellery	£
Clothing	£
Anything else of value	£
TOTAL ASSETS	**£**

Liabilities

Mortgage	£
Bank loan	£
Hire purchase agreements	£
Credit card debts	£
Other debts	£
Any tax owed	£
TOTAL LIABILITIES	**£**

BALANCE **£**

(deduct Total Liabilities from Total Assets)

If you are married, your personal possessions such as furniture, pictures and books, will go automatically to your spouse, unless you direct otherwise in your Will. However, if you want to ensure that all your possessions do go to your spouse, you will need to say so in your Will.

If you want particular possessions to go to other people, you should give your legal adviser an exact description of them so that they can be mentioned specifically in the Will or in an 'informal writing' (see page 10).

Setting up a trust in your Will

If you have young children, or grandchildren, whom you wish to benefit in your Will, you may wish to consider setting up a trust to look after their inheritance until they are old enough to use it responsibly.

The minimum age at which they can receive their share is 16, but many consider this to be too young an age at which to receive significant sums of money. A Will enables you to specify a later age, such as 21 or 25, as well as including some flexibility for your Executors to pay sums of income and/or capital for those children's education or benefit in reasonable circumstances before they attain the chosen age.

To set up a trust, you must establish three things in your Will:

- precisely whom the trust is intended to benefit;
- what assets are to be held in the trust;
- who the trustees are to be.

Your legal adviser can advise you on all these points and on the appropriate powers of the trustees, so that the children are provided for in the way you would wish.

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Liferent Trust

In certain cases, it may not be your wish to give the residue of your estate to your spouse outright. You may be concerned, for example, that your spouse might remarry, perhaps to someone who has children of their own, so that your estate might not pass entirely to your own children, or might be left to some other person or charity. In that event, you may wish to consider a 'Liferent Trust'.

This puts your estate (or a specified part of it) in trust, with the income of the trust being used by your spouse for the remainder of his or her life (entitling him or her, for example, to live in your share of the house and to enjoy the income from your savings), whilst the capital of the trust would be retained for your children, who would receive it on your spouse's death. Such a Liferent Trust has the advantage of ensuring that your estate will pass intact to your children, but will create some inflexibility for your spouse, who would be entitled only to the income from, but not the capital of, your estate.

Appointing your Executors

You should appoint two or three people to be the Executors of your Will. This avoids complication if a sole Executor is appointed who becomes unable to act for you or dies

before you. It is the Executors' job to see that your wishes are carried out. A named beneficiary in the Will can also be an Executor.

If you are married, you would normally appoint your wife or husband as one of the Executors. One or more of your children (provided that they are over 18) might also be an obvious choice. Where you have young children, the person you appoint as their guardian may also be a sensible person to consider.

You may consider appointing a professional person – your legal adviser or accountant – to act as one of your Executors. It is possible to appoint your bank as an Executor, but they may charge a fee specifically for doing so, which would have to be deducted from the value of your estate, so you should check that first.

Legacies

You may wish to leave sums of money or specific items (jewellery, pictures or pieces of furniture) to relatives, friends, neighbours or charities.

Legacies can also be used to assist in transferring assets to children or members of the family other than your spouse, in order to save Inheritance Tax.

These legacies can be specified in your Will or, sometimes, it is better to list them in a separate 'informal writing' (see page 10).

Disposing of the residue

When all the debts, funeral expenses, legacies and individual gifts have been deducted from your estate, there may still be some money left over. This is called the residue. The value of this residue will, of course, be unknown until you die. Many people choose to leave the residue to a charity, a move that has the added benefit of helping to reduce the Inheritance Tax liability (see pages 12-13).

Under the law your spouse cannot be totally excluded from inheriting a portion of your estate. They have what is known as their 'Legal Rights' which they would be able to claim if by doing so they would receive more than has been left for them in your Will. Their claim, if they decide to make it, is to either one-third of your moveable estate (where you have children) or one-half (where you do not).

Witnesses

Once the Will has been drawn up it needs to be properly signed on every side of every page and witnessed. One witness is needed, who must be over 16 and not related to you or to anyone mentioned in your Will, and both of you have to sign in each other's presence. The witness, or his or her spouse, may neither benefit from the Will, nor be mentioned in it.

Where to keep your Will

Most people ask their legal adviser or bank manager to look after their Will. Your legal adviser will usually be happy to retain it free of charge, and to provide you with a copy. If you would rather not do this, make sure you keep the original in a safe place – and inform someone close to you where to find it after your death.

When you should update your Will

There are many reasons why you may need to change your Will after you have made it. The most obvious changes are in your family circumstances; in particular marriage, separation, divorce, remarriage or the birth of children or grandchildren.

Marriage, separation, divorce and remarriage

- When you marry or remarry this does not in itself affect any Will you have already made. Your wife or husband is given only limited rights of succession by the law. They will not necessarily inherit everything you own. Therefore, to provide for your new spouse as you would wish, it is essential to make a new Will.
- If you make a Will without referring to the possibility of children who may be born to you in the future, that Will can be overturned after your death by any child who was born to you after the Will was made. Therefore, to ensure that your wishes are carried out it is essential to make a new Will on the birth of a child (or to have provided for that possibility in your initial Will).
- If you are separated from your wife or husband and living with a new partner, that new partner is entitled to nothing unless you change your Will.
- If you are separated or divorced from your husband or wife but do not make a new Will, your former spouse may still be able to claim what was left to him/her in your original Will, made before the break-up of your marriage. It is, therefore, very important to make a new Will in these circumstances.

Keeping your Will up-to-date

Even if there has been no change in your marital status, it makes good sense to take a fresh look at your Will every two to three years. When you do so, ask yourself the following questions:

- Does my Will reflect the present value of my property and possessions? Are my assets considerably more (or less) than when I first made my Will?
- Does my Will still meet my wishes?
- Should some of the bequests be altered to take into account changes such as the death of a beneficiary or the birth of any children in my family?
- Are there people or organisations not mentioned in my Will whom I now wish to benefit?
- Can I, by changing my Will, reduce the amount of Inheritance Tax that will have to be paid on my estate? (see pages 12-13).

How to change your Will

Codicils

The simplest way to make relatively minor alterations or additions to your Will is by making a Codicil. This is a written addition to your existing Will. You should decide on the changes you wish to make and then go to your legal adviser to draw up the Codicil. To simply add a gift to WWF-UK you can use the Codicil form supplied in this folder. Again, it has to be formally witnessed, in the same way as the original Will.

A Codicil may also be used to vary a gift of residue. As the wording would effectively need to change the terms of the Will it would be wise to seek professional advice.

Informal writings

It is usually preferable for minor bequests (such as jewellery, pictures and furniture) to be kept separate from your Will, because they are more prone to change. Most Wills contain a power which enables you to make 'informal writings' subsequently, which you can use to list any minor bequests of possessions and money you may wish to make (but not any substantive alterations to your Will). If and when made, they must be signed by you and dated, as well as being clearly expressive and unambiguous. If made, it is strongly advised that they be sent to your legal adviser to be checked.

A new Will

If there are more significant changes in your wishes or circumstances, you would be best advised to start afresh and make a completely new Will. This certainly applies if there has been a change in your marital status. Again, your legal adviser will be able to advise you.

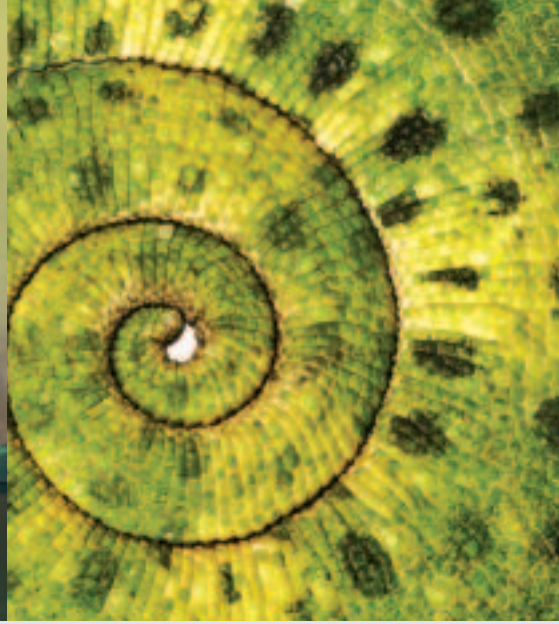
How to keep tax to a minimum

At the time of your death, the total value of all your assets (including trust assets from which you have enjoyed the income, and significant gifts made during the last seven years of your life) is calculated for Inheritance Tax purposes. If the total net value comes to more than the tax threshold, the excess will be liable to Inheritance Tax at the current rate.

The tax threshold and the rate of Inheritance Tax are fixed in the Chancellor of the Exchequer's annual Budget and are liable to change each year. For the current figures, please see the enclosed slip headed 'Inheritance Tax'.

By using the checklist on page 6 you can calculate the net value of your estate and work out whether you are liable to pay Inheritance Tax. If so, Inheritance Tax at the current rate will have to be paid from your estate on everything over the threshold.

Happily, there is no tax on wealth that is passed between a husband and wife. But leaving everything to your spouse will only delay paying Inheritance Tax until the second death. If you have substantial assets apart from your house, you should consider leaving what you can to your children or other beneficiaries – that way you can make full use of the current allowance on your death and a further allowance on the death of your spouse.



There are ways of reducing your tax liability and ensuring that as little as possible of your wealth goes to pay tax bills.

Life assurance

Death benefits from life assurance policies can be made free from Inheritance Tax. Therefore, arranging a policy which pays out to a named beneficiary after your death can be a good way of reducing tax liability.

Making gifts during your lifetime

No Inheritance Tax has to be paid on gifts that you make more than seven years before you die. And, if the gift is to a charity, no tax has to be paid, even if it is within seven years. No Inheritance Tax has to be paid on various annual gifts you may make up to the total annual allowance.

Leaving a gift to charity

A legacy to a registered charity is free from Inheritance Tax. Leaving a gift to a favoured charity in your Will not only helps a good cause but also normally reduces your Inheritance Tax liability, because any legacies to charities are deducted from the value of your estate prior to taxation.

For example, if your estate is worth £10,000 more than the tax threshold and, assuming Inheritance Tax is at 40% (the current rate) at the time of your death, there would be Inheritance Tax of £4,000 (40%) to be paid out of the estate. But if you made a cash legacy to WWF-UK of £10,000, the notional value of your estate would be reduced by that amount and there would be no tax to pay.

Gifts for the public benefit

Gifts or legacies to certain other organisations, which may not be charities, can also qualify for tax exemption. These are organisations that are deemed to be for the public benefit, such as a gallery or museum.

Legal language explained

In this booklet we have tried to keep legal terms to a minimum. But when you go to make or change your Will, there may well be unfamiliar words or expressions which need explaining. To make things clearer, we have listed below some of the more important legal terms along with short explanations.

ADMINISTRATORS
People appointed to sort our your estate according to the law in the absence of executors, and usually in the absence of a Will. Often they will be your next of kin.

BENEFICIARY OR LEGATEE
The individual(s) who or organisation(s) that are to receive something from your Will.

CHATTELS AND MOVABLES
All your personal possessions – car, furniture, jewellery, etc.

CODICIL
A change or addition to an existing Will.

CONFIRMATION
The legal procedure to establish the title of your Executors to administer your estate.

CROWN OR TREASURY
The tax office. If you leave no Will and have no relatives, the Crown or Treasury will receive all your possessions.

ESTATE
Everything you own at the time of your death.

EXECUTOR DATIVE
Someone appointed by the Sheriff Court to administer your estate according to the rules of intestacy if you fail to leave a Will.

EXECUTOR NOMINATE
The person you have appointed in your Will to administer your estate when you die and ensure that the terms of your Will are carried out.

GUARDIAN
The person you can appoint in your Will to look after any children of yours who are still under the age of 16 when both parents have died.

HERITAGE OR HERITABLE PROPERTY
A collective term for land and buildings.

INTESTATE AND INTESTACY
If you die without having made a valid Will, the law declares you to be intestate. Intestacy is the term used to describe this situation.

LEGACY
A specific item or sum of money given by a Will or Codicil.

LEGAL RIGHTS
Where a spouse or children have been left little or nothing in a Will, they can make a claim to their 'Legal Rights', which entitles them to receive a share of the movables in the estate.

PECUNIARY BEQUEST OR GIFT
The gift of a specific sum or item.

PROBATE
The legal procedure to establish whether you left a valid Will and appoint administrators if you did not.

RESIDUE
The sum that is left from your estate when all debts, tax, legacies and fees have been deducted.

RESIDUAL BEQUEST OR GIFT
The gift of residue to one or more people or organisations.

SPOUSE
The person to whom you are married.

TESTATOR (MALE) OR TESTATRIX (FEMALE)
The person who is making the Will – you.

TRUST
When all or part of your assets are left in the hands of Trustees. They are responsible for administering it for the good of the beneficiaries – usually children or grandchildren.

TRUSTEE
Someone entrusted to look after assets for others. It includes an Executor, who has to look after any part of your estate that you leave under a trust.

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Make the most enduring gift of all

By leaving a gift in your Will to WWF-UK, you can be assured that you are making a lasting contribution that will continue to work long after your death. If you can, please do take a moment now to consider remembering WWF-UK in your Will – either in the form of a a gift or, as many of our supporters do, in the residue of your estate after all your loved ones have been provided for.

There are several ways you can leave a gift to WWF-UK. Among them:

Pecuniary gift

When you want to leave a specific sum to us.

Residual gift

This is when you bequeath the residue from your estate after all other bequests, costs etc. have been deducted.

Partial Residuary gift

For example, specifying a gift of 5% of the value of your estate. This would mean that an estate of, say, £20,000 with a 5% bequest would provide a gift of £1,000 to WWF-UK.

Should you wish to include WWF-UK in your Will you will need to use certain legal wording:

For a Pecuniary Gift:

'I give the sum of £ _____ (or the item specified) to WWF-UK of Panda House, Godalming, Surrey, Registered Charity No: 1081247, for its charitable purposes. I further direct that the receipt of the Honourary Treasurer or other proper officer of WWF-UK for the time being shall be a full and sufficient discharge for the said legacy.'

For a Residuary Gift:

'I give the residue of my estate to WWF-UK of Panda House, Godalming, Surrey, Registered Charity No: 1081247 for its charitable purposes. I further direct that the receipt of the Honourary Treasurer or other proper officer of WWF-UK for the time being shall be a full and sufficient discharge for the said legacy.'

For a Partial Residuary Gift:

'I give _____ (percentage or fraction) of my residuary estate to WWF-UK of Panda House, Godalming, Surrey, Registered Charity No: 1081247, for its charitable purposes. I further direct that the receipt of the Honourary Treasurer or other proper officer of WWF-UK for the time being shall be a full and sufficient discharge for the said legacy.'

The vital income we receive from legacies is used to support all WWF's work. We therefore ask that any gifts are not restricted to specific areas of our work. This allows WWF to use gifts for projects deemed most in need at the time the gift is received.

10 important points to consider

1. Making a Will is the only way to make sure your property and possessions will go where you wish after your death.
2. If you die without leaving a Will, your belongings will not necessarily go to your wife or husband. Scottish Law decides how much should go to each of your relatives.
3. If you die without leaving a Will, your estate cannot be administered until a relative has applied to the Court to become Executor. Only one person can do so. If that person is not the surviving spouse, the relative will have to provide an insurance policy ('Caution') to the value of your estate. This is likely to involve delay.
4. If you die without leaving a Will, and have no family, everything goes to the government.
5. A Will is essential to provide properly for young children in the event that both parents die. In your Will you should nominate a guardian to look after your children.
6. It is also essential to make a new Will if you have separated, divorced or remarried since you made your existing Will. You will need to make a new Will when you marry. Otherwise, under Scottish Law, any Will you made before your marriage will remain in force – and your wife or husband will only have a very limited claim on what you owned.
7. You and your partner should each have your own separate Will.
8. Once you have made your Will, you should ensure that the original is kept safe and you should look at your copy of it every few years to make sure it still fits your wishes and circumstances.
9. You should seek the help of a legal adviser when you make or change your Will. Home-made Wills may not stand up in law.
10. You can reduce the tax burden on your estate by making a gift or legacy to charity.

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Notes

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