



Your Legal Questions

Jenny Brading
Solicitor

Q How old do you have to be to make a Will?

A There is a minimum age limit for writing a Will. In England, Wales and Northern Ireland you must be over 18, and in Scotland you must be over 16. There is one main exception to this limit and that is for members of the Armed Forces who are on active duty. They are able to make a special Will when they are 17.

There is no upper age limit for making a will.

Q Is there anyone who can't make a Will?

A To make a Will you must be over the minimum age limit and have "testamentary capacity" – often referred to as "of sound mind".

Simply put, it means you must understand that you are making a Will and the effect that this may have on those who are dependent on you; and need to appreciate the extent of your assets/possessions ("your Estate"). Where a person lacks testamentary capacity and has assets but no Will or an inappropriate Will, an application can be made to the Court of Protection for a Statutory Will to be approved on their behalf. This is a complex area and legal advice would be required.

Q Once made, can anything invalidate a Will?

A Generally speaking, a Will remains valid unless properly cancelled ("revoked") by the person who made it despite any changes in circumstances or fortune. There is, however, one important exception – entry into a marriage or civil partnership will automatically revoke any previous Will made by either of the parties unless the Will was made in contemplation that **specific** marriage/civil partnership. Surprisingly, divorce/separation does not render an earlier Will invalid, but it may affect certain provisions. For these reasons it is sensible to review any Will whenever there is a change in family circumstances.