



Prostate Scotland

Legacy Booklet

Introduction

This legacy booklet sets out information about Wills and about writing a Will or getting a Will written. Having a Will is important – too few people in Scotland have one. The main reason to make a Will is to look after your family and loved ones, but it can also be about looking after the health and wellbeing of others who are important to you. By including a gift in your Will to Prostate Scotland you could do both.

We have developed this booklet to help you if you are looking to write or have a Will written for you.

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Why leave a gift to Prostate Scotland in my Will?

Prostate cancer is the most common cancer of men in Scotland. It is expected that the number of cases will grow by 35% over the next 10 years. Nearly half of all men in Scotland are likely to be affected by prostate disease at some stage of their life. A gift in your Will is a wonderful thing – it costs nothing in your lifetime, yet it could make the world of difference to someone facing prostate cancer and disease in the future. This could even include future generations of your own family as we know that having a family link to prostate cancer can increase someone's risk by up to four times. If you are a man with an African/Caribbean background you also have a higher risk of prostate cancer than men from other ethnic backgrounds. Your gift could have a real and lasting impact. It could help prevent someone having to experience challenges you and your family may have faced. It could even help save someone's life. Please help us make

sure that every man can recognise the symptoms of prostate cancer and disease so he can get an early diagnosis, receive the most suitable treatment and have the best possible chance of living a healthy and fulfilling life after treatment. For those who are already living with prostate cancer and disease you can help us support them and their families with information about the diseases, tests and treatment options as well as how to get additional support. You will be remembered for your generosity and for the life changing legacy you gave for those at risk of or affected by prostate cancer and disease. There are also tax reductions applied to Inheritance Tax when you make a gift to a charity in your Will and there is no Inheritance Tax charge on assets left to charity on death. Further explanation on the impact of charitable giving to your Inheritance Tax position is given further on in this booklet.

How do I make my Will?

There are a couple of options you could either **use your own lawyer** or the **National Free Wills Network**. If you register to use the National Free Wills network **Prostate Scotland will pay** the cost of writing a standard Will, however, if you use your own lawyer Prostate Scotland is unable to fund the cost of that Will. If you take

advantage of the **free standard will-writing service** we would really appreciate it if you decided to remember us with a gift in your Will but you are under no obligation to do so when using this service.

How do I make my Will?

To get your **free standard Will** the first step is to get in touch with Prostate Scotland using whichever way you prefer:

1. Completing the **Legacy Enquiry Form** by selecting the Find out more on the Wills and Legacy button on our website.
2. Emailing your full contact details to **communications@prostatescotland.org.uk** and explaining that you are interested in the National Free Wills Network service.
3. Writing to us at Prostate Scotland, **14 Torphichen Place, Edinburgh EH3 8DU** giving us your full contact details mentioning that you are interested in the National Free Wills Network service.
4. Telephoning Prostate Scotland on **0131 603 8660** and asking to speak to someone who can give you assistance with the National Free Wills Network service.

Once you have been in contact with Prostate Scotland we shall pass on your details to the National Free Wills Network. Following this you will receive a letter on National Free Wills Network letterhead incorporating Prostate Scotland's logo, listing appropriate solicitors in your local area who will help you make or amend a standard Will at no cost. This letter will explain that there is no obligation for you to include a gift in your Will for Prostate Scotland but we would be delighted and very grateful if you did. The pack from the National Free Wills Network also includes a Confidential Declaration Form that you can complete if you wish.



A Will is the only way of ensuring that your wishes are carried out when you have passed and is a way of looking after your family, friends and the causes that you care most about. Having a valid Will in place will help avoid confusion and stress during what is already a difficult time. If you would like to leave a gift in your Will, there are several ways to do so and all gifts to Prostate Scotland are free of Inheritance Tax. There are several ways to leave a gift:

1. A share of your estate (known as a Residuary Legacy)

You may wish to leave Prostate Scotland all or part of what is left of your estate after other gifts, taxes and costs have been paid. This type of gift has the advantage that it will not be eroded in value by inflation over the years.

2. A cash gift (known as a Pecuniary Legacy)

You may wish to leave us a fixed sum of money. With this kind of gift, it is important to remember that the value of money changes over the years, and you may need to alter your Will periodically to keep up with inflation.

3. Property and Assets

You may wish to leave us a property, stocks and shares and antiques. Personal possessions or assets can be extremely valuable and donated to Prostate Scotland in your Will. Prostate Scotland will sell these and use the cash to support our work.

4. A specific legacy

A gift of a specific item such as property antiques, jewellery and shares.

5. Goods and Chattels

You may wish to leave us things you own - these include things like furniture, jewellery, cars or books. Prostate Scotland will sell these items and use the cash to support our work.

Your Will

The agreement with the Network is that the firm offers you its standard Will. The regular price of that varies from firm to firm. They provide that free to you and Prostate Scotland pays a fixed fee which is below the market value of providing a standard Will. If you would like something more elaborate you are able to get the basic element free of charge, but you would need to pay for the more elaborate element yourself. You can also write a codicil to an existing Will under this scheme. A codicil is a document that allows you to make minor amends to a Will without needing to rewrite the original document. It is worth checking your Will regularly to see if everything is still relevant and as you wish.

You should consider changing your Will if any of the following changes in circumstances apply to you - new children or grandchildren, marriage, divorce, death of a beneficiary or executor, or an executor is unable or unwilling to act.

Please note that Prostate Scotland **never** receives a copy of your Will nor will we be informed of its content. We will only be told of any gift to Prostate Scotland if you explicitly consent to share those details with the Network and in so doing you will receive a letter of thanks from Prostate Scotland. The National Free Wills Network requests that you make contact and get your Will written by your chosen solicitor as soon as possible but no later than 90 days after receiving their letter and pack.

Once you have had your Will written keep it safe. Sadly, Wills get lost or mislaid over time. To ensure your wishes are carried out it is recommended that you leave the original copy of your Will with your lawyer. If you wish you can register your Will with the National Will Register, for a small fee. See www.nationalwillregister.co.uk for further details. There is also a code on the back of the Confidential Declaration Form which allows you to do this free.



Preparing for your meeting with your Lawyer

In preparation for meeting with your chosen lawyer we have prepared an outline Assets Register, Benefactors List and Executors List which you might find useful to complete beforehand and take to your appointment. This is shown at **Appendix A** of this booklet. When you prepare these the information you include might depend on where you live therefore to assist you we've included some variations under Scottish and English Law as the process of making a Will is slightly different for those living in Scotland compared to those domiciled in England and Wales. Much of this is simply down to different terminology, although there are some subtle variations in the law which may affect how a Will is written. Your National Free Wills Network lawyer will give you the correct advice concerning these variations as this service is available to anyone living in Scotland, Wales or England. All Network solicitors are members of their relevant Law Society. We have also prepared some **FAQs (Appendix B)** and a Legacy Glossary (**Appendix C**) found in the pocket. Please read these in conjunction with the booklet and prior to your meeting as it might help you understand some of the terms being used.

Variations for those having your Will written in Scotland or England and Wales

The main difference is that in Scotland your spouse and children are entitled to part of your estate irrespective of the terms of the Will. This is referred to as Legal Rights or Legitim and is specific to Scotland. It is important to note that Legal Rights only apply to your “moveable assets”. A beneficiary cannot claim their Legal Rights and take any benefit conferred under the Will. A Legal Right is automatic, the spouse or child is deemed to be a creditor on the estate, or a claim can be made at any time during the 20 years following the deceased’s death. In England, people have what is known as “testamentary freedom”, which means that you are entitled to leave your estate however you wish. However, this freedom does not apply to Scotland. As a result of this, unlike in England or Wales, you cannot cut out a direct family member from your Will, whatever your rationale.

The only way that a spouse or child could be left without inheritance is if all the assets are tied up in property or land, as this entitlement only applies to “movable assets”. This law can also apply to movable assets that are held in a Scottish home, with these assets termed as being “domiciled” in Scotland. Therefore, even if you live in England, any assets that are kept in Scotland fall under these laws and would therefore need to be distributed among direct family unless an alternative arrangement is stipulated in the Will.

You should also be aware that remarrying does not invalidate a Will in Scotland.

The only circumstance in which Scottish law wouldn’t apply to your Will is if it was legally witnessed and signed in England, Wales or elsewhere outside Scotland. The only exception to this would be if any stipulations in the Will contravened Scottish law. If you need any subsequent changes to your Will, it would need to be rewritten in accordance with Scottish regulations. In certain cases, you can write a

Scottish and English Will that are both applicable if you wish to deal with assets on both sides of the border separately, but your lawyer will be able to give the appropriate advice. Another difference is that you don’t need to be 18 to write a Will in Scotland. The legal age to write a Will in Scotland is 12, and you must also be of sound mind. The person writing the Will must also have full knowledge of all the assets which need to be mentioned in the Will.

There is a slight difference in Scotland when it comes to valuing shared assets. In England and Wales, an individual’s share of an asset is half the valuation minus 10%. In Scotland, £4,000 is taken from the shared asset’s total value, and it is then divided by two. For example, if someone in Scotland owned a shared property valued at £250,000, the valuation would be reduced by £4,000 leaving £246,000 and then divided by two leaving your value of that asset as £123,000.

In Scotland Confirmation is the process by which you confirm that someone’s Will is valid. The process is largely similar to Probate - used in England and Wales - but there are some legal differences. For example, Confirmation is granted by a commissary department of the local Sheriff Court in Scotland rather than the High Court, as is the case in England and Wales.

The laws around executors are also slightly different in Scotland. An executor need only be 16 years old in Scotland, unlike in England and Wales where they need to be 18. There is also no maximum number of executors in Scotland unlike England and Wales where up to four can act as Executor at once. It is good practice for there to be a minimum of 3 Executors appointed, as this allows Executors to vote on decisions without encountering road blocks.

What does an Executor do and who should I suggest for the role?



Perhaps the choice of an Executor in Scotland is helped by describing the various activities he or she will have to undertake. An Executor has a key role to play in dealing with the distribution of a deceased person’s estate and is a position of significant responsibility that should be taken seriously. An Executor is the title given to the person who is responsible for dealing with the administration of the deceased’s estate. The Executor is responsible for ensuring that the estate is distributed in accordance with the terms of the deceased’s Will and the law of Scotland. It is common for close relatives, friends or a solicitor to be nominated as Executor under the terms of a Will. However, if the deceased did not appoint an Executor in their Will or died without a Will, an Executor can be appointed by the Sheriff Court. The Succession (Scotland) Act 1964 determines who is entitled to be appointed in such cases. An Executor is entitled to instruct a solicitor to act as Agent to assist with the administration of the estate and the Will usually provides for all fees and expenses to be met from the estate. If you live in England the role of Executor is different and a handy reference is “Duties of an Executor” on the

Probate Service website. This outlines the role in England and Wales.

Being an Executor is a big responsibility it can be both time consuming and onerous. It will involve dealing with HMRC and the courts. You will be liable to the beneficiaries for any actions that you take in the administration. If the deceased had a business then that becomes your responsibility as well. Or you could save yourself the stress and in Scotland instruct a solicitor to act as Agent or in England appoint a professional from The Probate Service.

1. Funeral Arrangements

The first steps an Executor will have to take following a death is to register the death and make funeral arrangements. The deceased may have given an indication of their wishes in their Will or may have a prepaid funeral plan in place. In the absence of any wishes in the Will, the Executor is entitled to make reasonable arrangements. If there is no estate to cover the costs of the funeral, it is possible to apply for a funeral support payment to help towards these costs.

What does an Executor do and who should I suggest for the role?

2. Investigate the extent of the Estate

The Executor is required to check the terms of the Will, identify the beneficiaries, and determine what assets belonged to the deceased at the date of their death. The Executor must also ascertain the value or balance of the assets (including property, bank accounts, shares etc.) at the date of death. Depending on the type of assets a person has or in some cases the value of particular assets, the Executor may be required to obtain what is known as Confirmation (the Scottish equivalent of probate) before they are able to deal with that asset. Each organisation will have different requirements and will need to be contacted and advised of the death, asked to provide the value/balance of the asset as at date of death and asked to advise what their requirements are and if Confirmation will be required. It is often the case that some assets can be ingathered without Confirmation, but it may still be required for others.

As well as the assets position, the Executor should also determine any debts and liabilities of the deceased so that these can be settled before the estate is distributed to the beneficiaries. The Executor should be satisfied that there are sufficient assets to cover all liabilities before settling anything other than funeral related expenses (which are always settled ahead of anything else).

3. Pay Inheritance Tax (IHT) if due

Once the estate has been valued, the Executor must work out if the estate is liable to pay IHT. An estate is generally liable to IHT if the value of the assets at the date of death, together with the value of any chargeable gifts made in the 7 years prior to death exceeds the Nil Rate Band (currently £325,000). Other allowances may be available depending on the circumstances. The Executor must send the necessary paperwork to HMRC and if the estate



is liable to IHT it is advisable to pay it as soon as practicable to avoid having to pay interest. Tax is payable 6 months after the deceased's death, with interest applied thereafter.

4. Apply for Confirmation

If Confirmation is required to deal with the deceased's assets, this involves the Executor lodging an Application to the Sheriff Court. Part of the Application is an Inventory of all the assets the deceased owned at the date of death, together with each asset's value or balance at that date. Confirmation, once granted can then be exhibited to each organisation (banks, building societies etc.) together with the Executor's instructions for dealing with that asset. This shows the organisation that the Executor is the appropriate person entitled to deal with the estate and that they are therefore paying funds out to the correct person who is entitled to receive it on behalf of the estate. In limited cases, Confirmation may not be required at all.

5. Ingather the Estate

Once Confirmation is granted, if required, the Executor has the Court's legal authority to deal with the assets in the estate and can then instruct the sale/transfer of property, close bank accounts and cash in or transfer investments etc. At this stage, any outstanding debts, and expenses due by the estate are settled. The Executor is also responsible for keeping accurate accounts of all their dealings with the funds of the estate and reporting to the residuary beneficiaries.



6. Tax

As well as ingathering the estate and settling liabilities, the Executor is also required to finalise the deceased's tax affairs. There are 3 taxes which need to be considered:

a. Income Tax

Depending on how complex the deceased's affairs are, the Executor may need to complete an Income Tax return for the tax year to date of death. In most straightforward cases, this will not be necessary, but HMRC will ultimately advise. An Executor will also have to report to HMRC for any untaxed income received during the period of administration, such as bank interest, dividends, rental income etc. These are all paid Gross and so Income Tax will need to be paid before the estate is distributed.

b. Inheritance Tax (IHT)

As noted above, if Inheritance Tax is due, this requires to be reported to HMRC and any tax due, paid before Confirmation can be granted.

c. Capital Gains Tax

If any assets are sold during the period of administration (e.g. the sale of the property, shares, investments) at a gain from the date of death value and the overall gain/loss position results in a gain, Capital Gains Tax may be payable. An estate benefits from the same

allowance as an individual (£12,300) for the tax year in which the death occurred and the following 2 tax years. Therefore, provided the overall position does not result in a gain more than this amount, no tax liability will arise. Otherwise, residential property gains are taxed at 28% and 20% for all other assets. Losses can be offset to reduce the value of the gains. It is also possible for assets incurring a gain to be appointed to beneficiaries before sale, so that their individual allowances (provided these are not already used up for that year) can be used to offset gains to reduce or avoid an estate liability.

7. Distribute the Estate

The Executor must then distribute the estate in accordance with the terms of the Will and the Law of Scotland which make provision for things such as Legal Rights (the rights of surviving spouse and children) which apply regardless of the terms of the Will. It is advisable to allow 6 months to pass before distributing the estate. This is the time that creditors have to lodge a claim on the estate. This is important to note as the Executor will be personally liable for these debts if they finalise the estate within 6 months of the date of death.

How much Inheritance Tax will my Estate have to pay?

A charitable gift in your will can make a difference. As well as the gift itself being tax-free, charitable gifts can also reduce the amount of inheritance tax that the rest of your estate will pay. Under current legislation if you give at least 10% of your taxable estate to charity, the inheritance tax rate for the rest of your estate drops from 40% to 36%. In some cases, including a legacy to a charity within your Will might eliminate the need to pay Inheritance Tax completely.

The current inheritance tax (IHT) threshold is £325,000 per person (£650,000 for couples) This is known as the Nil Rate Band (NRB). Anything over this is taxed at 40% anything under this is free of Inheritance Tax. This takes into account the value of your whole estate, so may include property, land, cash, stocks and shares and valuables.

If the value of your estate is above the IHT threshold, and you want to avoid your loved ones picking up the bill, leaving money to charity can provide you with a tax break. If you leave something to charity in your will, it will not count towards the total taxable value of your estate. This can reduce or potentially even eliminate your IHT liability.

Please remember that normally there is no Inheritance Tax to be paid if you leave everything above the threshold to your spouse or civil partner, or if you leave everything above the threshold to an exempt beneficiary such as a charity. The Nil Rate Band is fixed at £325,000 until 2026 but your NRB might be increased if you are widowed or a surviving civil partner. Couples can transfer any unused NRB when the first person died to the survivor. This can double the amount of NRB available up to £650,000. This extra transferable element is known as Transferable Nil Rate Band (TNRB).

The Residence Nil Rate Band (RNRB) – also known as the home allowance - has been introduced recently. The Residence Nil Rate Band is an additional allowance on top of the Nil Rate Band and the Transferable Nil Rate Band. To be eligible you must pass your home to your children and grandchildren. This includes stepchildren, adopted children, and foster children but not nieces, nephews or siblings. There is tapered withdrawal of the home allowance if the overall value of your estate exceeds £2 million. Provided certain conditions are met, the home allowance gives you an additional allowance to be used to reduce any Inheritance Tax liability against your home.

This table shows the increase of the RNRB and the potential combined allowance

Tax Year	Resident Nil Rate Band (£)	Nil Rate Band (£)	Combined Allowances (£)
April 2021 to April 2026	175,000	325,000	500,000

Illustrations showing the potential impact on Inheritance Tax liability of including a charitable legacy in your Will compared to one without.

Illustration 1 Inheritance Tax Liability (without a charitable gift)

An estate is worth £525,000
The IHT threshold is £325,000
The estate is liable for Inheritance Tax on £525,000 - £325,000 = £200,000
Inheritance Tax is charged at 40%
The Inheritance Tax total would be £200,000 x 40% = £80,000

Illustration 2 Inheritance Tax Liability (with a charitable gift)

An estate is worth £525,000
The IHT threshold is £325,000
The estate gives a legacy to a registered charity of £100,000 (more than 10% of the overall value of the estate)
Inheritance Tax is charged at 36% (Inheritance Tax rate drops to 36% as the charitable legacy is more than 10% of the overall value of the estate)
The Inheritance Tax total would be £100,000 x 36% = £36,000

The impact of giving £100,000 to the charity reduces the Inheritance Tax liability by £44,000 (£80,000 – £36,000)

For more information about Inheritance Tax please visit www.gov.uk/inheritance-tax

The information included here might help you to choose your beneficiaries and the relative amounts they might receive in your Will.



Please note these examples are purely for illustrative purposes only and do not replace financial advice from a qualified professional accountant or financial adviser or lawyer. We take all reasonable care to ensure information contained within this document is accurate, however, we give no guarantee to the accuracy and completeness of the information or to any errors and omissions that may occur due to circumstances beyond our control.

Information provided in this booklet is for general use and not personal to your circumstances, nor is it intended to provide specific legal or financial advice. No information in this document should be viewed as an offer or recommendation to undertake any specific activity.

All information provided is based on our understanding of current legislation which is subject to change. It has been produced for information purposes only. Professional advice should always be sought before taking any action. Prostate Scotland cannot take any responsibility for losses incurred through acting or failing to act on the basis of anything contained in this document.



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Prostate Scotland is a charity registered in Scotland (SC037494)
Prostate Scotland is a company registered in Scotland (SC306268)

If you have already made a Will and included a gift in favour of Prostate Scotland

First, thank you very much for thinking about Prostate Scotland and including a gift in our favour. If you haven't already done so we should be grateful if you could let us know. To notify Prostate Scotland you have included us in your Will please get in touch in one of the following ways:

1. Completing the legacy registration form by selecting the Find out more on the Wills and Legacy button on our website and choosing the "register with us" link.
2. Emailing your full contact details to communications@prostatescotland.org.uk explaining you have left a gift in your Will in favour of Prostate Scotland and including the name of the Lawyer's Firm you have used.
3. Writing to us at Prostate Scotland, 14 Torphichen Place, Edinburgh EH3 8DU giving us your full contact details mentioning you have left a gift in your Will in our favour and including the name of the Lawyer's Firm you have used.
4. Telephoning Prostate Scotland on 0131 603 8660 and asking to speak to someone who can record that you have included a gift in your Will in favour of Prostate Scotland.

Please note we only request this information for tracking purposes because often many years elapse between someone writing a Will and leaving Prostate Scotland a legacy to the time when Prostate Scotland receives their kind and generous gift. We only record this information and won't communicate with you unless you give Prostate Scotland your permission to do so. We are not asking for a copy of your Will or its contents only a notification that you have included Prostate Scotland in it.