

# Will Advice Portfolio



## Liston & Company

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# **Will Advice Portfolio**

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It is irresponsible and indeed unfair to your dependents not to make a Will.  
Everybody over the age of 18 should make a Will.

## 1. If I do not make a Will, who will inherit?

If I die without making a Will my estate will be distributed as follows:-

<b>Relative Surviving</b>	<b>Distribution of Estate</b>
Husband and Children	Two Thirds of Estate to the Husband: one third equally among the children.
Wife and Children	Two thirds of Estate to the Wife: one third equally among the children.
Husband and no children	Husband takes all
Wife and no children	Wife takes all
Children and no spouse	Children take equally
Not married survived by Father, Mother, Brothers and Sisters	Each Parent takes one half
Not married survived by Father, Brother and Sisters	Father takes all
Not married survived by Mother, Brothers and Sisters	Mother takes all
Not married, survived by Brothers and Sisters	All take equally

AND the administrator of your Estate will have to take out a Bond with an Insurance Company for double the size of your Estate which can cost between €75.00 and €400.00.

## 2. Why should I make a Will?

Everybody should make a Will regardless of the size of their Assets. If you make a Will you can decide who will administer your Estate and who your Estate will go to. As you will have seen from the previous page it is possible that if you do not make a Will your Estate could go to relatives that you would not wish to benefit.

### If I make a will what should I think about?

1. **Appoint an Executor.** Any person over the age of 18 years and of sound mind can be an Executor. Sometimes there is more than one.
2. **Guardians.** If both parents should die who would look after the children who are under the age of 18. Unless somebody is prepared to volunteer to look after the children who are under the age of 18 they may be made Wards of Court. This may not be what you want. Therefore you should appoint Guardians of your infant and children.
3. **Trustees.** Trustees are responsible for the investment of monies on behalf of minor beneficiaries until they come of age.

### To whom should I leave my Estate?

If you are survived by a spouse and no children then the spouse is legally entitled to one half of the Estate. If you are survived by a spouse and children then the spouse is legally entitled to one third of the estate.

You should be careful about how you divide up your estate between your children. The law provides that you have a moral duty to make proper provision for them in accordance with your means.

### Other Factors

What would happen if both parents are killed in a common disaster or die in quick succession, how would the children be looked after?

Will your children be mature enough to take their benefit when they are 18 or would you like them to receive it later?

Is it possible that any of your children could be denied the opportunity of completing their education if you did not properly look after them in your Will or by insurance?

Will your surviving spouse be able to maintain the same standard of living if you are the income provider and you die?

Will any of your beneficiaries have to pay tax on your inheritance and if so is there anything you can do to legally avoid it now?

Do you have treasured possessions which you would like to bequeath or will these have to be sold?

If you have your own business or you have a business partner, how will you deal with it?

### **3. Should I be concerned about Insurance?**

If you are the main breadwinner and your family are dependent on your earnings capacity then it is prudent to protect them from financial risk. At a time of bereavement the added distress caused by financial worries is traumatic and unnecessary. Where your personal assets are insufficient to support your family then adequate life assurance should be put in place. This is the simplest and most cost-effective way of ensuring the money is available in the event of death.

#### **How much life assurance should I have?**

Commonly, where your home is mortgaged, there will be a mortgage protection policy which will pay off your outstanding mortgage. Outside of this you will want to ensure that any capital sum will be sufficient to cover monthly outgoings for the future. This future will depend on circumstances particularly where there are dependent children, but a good rule of thumb is a figure of 8 times gross annual income. With this level of cover it should be possible for your family to maintain the same standard of living.

The type of policy chosen will dictate the cost of the life assurance. The cheapest form of life assurance is known as term assurance where you buy cover for a limited term (particularly suitable for those with young families and high commitments).

#### 4. Should I be concerned about Inheritance Tax?

Inheritance Tax comes under the branch of taxes known as Capital Acquisitions Tax (CAT for short).

Inheritance tax is payable at a rate of 20% on the amount received in excess of certain threshold. These thresholds are lifetime limits and are currently as follows:

<b>Group</b>	<b>Relationship to deceased</b>	<b>Threshold</b>
Group I	Child / foster child / child of deceased child	€456,438.00
Group II	Grandchild / brother / sister / niece / nephew	€ 45,644.00
Group III	Other	€ 22,822.00

It is important when drawing up your Will to consider these tax free thresholds so as to ensure they are used to maximum advantage.

There are also reliefs and exemptions for certain residences and for businesses which should be considered.

#### **Is the position different where I am a “Common Law” spouse/ separated spouse?**

The concept of two people setting up home as “common law” spouses is becoming more frequent, whether as two single people or where one or both partners were previously married. In the eyes of the law, as it presently stands, they are regarded as strangers to each other and cannot benefit from concessions or rights available to married people.

A number of major consequences flow from this lack of legal recognition.

- A. Because they are strangers CAT on transfers between them is higher.
- B. Common law spouses have no succession rights.
- C. There can be problems associated with gifting or bequeathing assets to a common law spouse depending on the former spouse’s legal rights and children’s interests.

It is important therefore that common law spouses make a Will as otherwise the rules of intestacy apply with the result that the surviving partner is cut out of the estate.

Again life assurance can provide solutions in terms of provision for financial dependency and for CAT by means of cross insuring (also known as life of another policies).