

KNOW YOUR RIGHTS

It is not morbid to think about making a Will. Let us face it we none of us live forever, and unless there is a Will what we leave goes in accordance with the law under what are called the "Intestacy Rules".

Most people think that everything will automatically go to their wife or husband as the case may be. To quote the old song "It ain't necessarily so". Property in joint names will usually go to the survivor, but if the property is in just one name its value is taken into account in assessing how much goes to the surviving spouse, which in fact is limited to £125,000 plus your personal bits and pieces ("personal chattels" the law calls them) and after that some goes to children and some is in trust for the surviving spouse. If there are no children, the survivor gets £200,000 and a share in anything over the rest of which is divided between various relatives.

Even with a small estate is far better to have a Will, if only because you then have proof of what it is that the deceased wanted, and of course you have the deceased's choice of executors (the people who actually have to carry out the wishes), and not in accordance with arbitrary arrangements of law.

It is also important to remember that in the eyes of the law a relative is not a relative at all unless they are a blood relative. Your stepchild does not count, nor do the children of your spouse's brothers or sisters. Furthermore nowadays more and more people tend to live together without getting married and as the law stands not a surviving partner is unlikely to be able to obtain any provision even by going to Court. This may be altered soon, but it would still involve a Court case and it would be so much easier just to make a Will.

How do I make a Will?

There is no mystique about it. All a Will has to do is to set out what it is you wish to be done with your estate. You do not have to itemise each and every item (except in so far as you wish to leave a particular item to somebody) and providing the wording



is clear there need be no formality. A Will was admitted to probate which merely said "All to Mother" and this was valid. There was a slight difficulty, however, because being a Yorkshireman he called his wife "Mother" and the Court finally had to decide whether he had meant to leave everything to his Mother or Wife! The point is that even such a vague Will as that will be accepted by the Courts who will do their best to make sense of it.

Except in the case of servicemen a Will has to be in writing and has to have two independent witnesses. The witnesses can be married to each other, and indeed can be anybody in the world other than people who are mentioned in the Will or their spouse. The only legal rule is that a witness cannot be blind, mad or drunk! the Will-maker and the

two witnesses should all sign on the same occasion and no one should leave the room until all three signatures are complete and on the Will.

There are various companies which do publish Will forms and these, in general, are very good. Before you fill one in just stop and think what you want to do, who you want to appoint as executor, and whether there are any special ideas for your funeral. If there are, then do tell your executors. It is only in Hollywood films that they have an official "reading" of the Will and ideally the executor should open the Will to see what it says immediately on learning of the death. I recall a very sad case when a family opened the Will after the funeral to find that the first words were "I wish my body to be cremated" and they had just come back from

burying her! It was very traumatic and although it ended well by having the body exhumed and then cremated it was a very gruelling experience for everybody.

I would just put in one word or caution. If there are children under 18 involved do get the Will professionally drawn. The intricacies of Trust Law are not suitable for the DIY Lawyer!

In order to deal with a dead person's estate (unless it is quite small) it is necessary to get a document called a "Grant of Representation" which is issued by a Probate Registry which is, in fact, a branch of the Courts. The way of applying for this is quite straightforward and I would invite any BIGGA member who finds his or herself in the position of having to do this to give us a call here at Hambro Legal Protection Ltd when we will be only too happy to act as a guide through the process. It is rarely necessary to involve a solicitor in this part of the business, although once a Probate has been obtained it may be necessary to have a solicitor to deal with the actual conveyancing of the property.

If you do have any problems regarding Wills, intestacy or anything else of this nature please do not hesitate to telephone us. It is one of the benefits you have by virtue of your BIGGA membership

■ In the event of a member having any legal problem then it is extremely important that Hambro Legal Protection Ltd be contacted without delay. Hambro Legal Protection Ltd's telephone number is 01206 867775 and the service is available 24 hours a day, 365 days a year.

The BEST piece of ADVICE I ever received



Terry Farkin, Head Greenkeeper at Dartmouth Golf and Country Club: "Believe in your own judgement

rather than listen to everyone else. Dartmouth is a new course and everyone likes to give an opinion but you've got to go on your own instinct."