

THE LAWS THAT COULD GOVERN YOUR WILL FIND OUT MORE BELOW



The Law Commission has made a variety of proposals to reform the law governing wills in England and Wales

What were you doing in 1837?

Of course, the question is rhetorical. For you, the reader, were clearly not born then and, unless your hobby is genealogy, you would struggle to name any distant family members alive at that time. Yet, your family member was, and you currently are, both subject to the Wills Act 1837. In the intervening 188 years, the Act has been subject to amendments, but some of its early Victorian contents have survived.

Arguably, not before time, the Law Commission recently issued a comprehensive report making recommendations to create a Wills Act for the 21st century. Its proposals include:

- **Enabling electronic wills:** Paper was the order of the day in 1837, not digital screens. The Law Commission recommends that electronic wills should be valid, subject to suitable protection for the person making the will (the testator) and appropriate security for the will.
- **Ending will revocation on marriage or entering a civil partnership:** In England and Wales (also, Northern Ireland, but not Scotland), a will is normally automatically revoked on marriage. Few people are aware of this, which can lead to couples thinking that the words written during cohabitation are valid after the wedding bells have rung. At the other end of life, there is the issue of 'predatory marriages' when one party marries, knowing that they will benefit from intestacy rules when their older partner dies without having made a fresh will.
- **Reducing the minimum age at which a person can make a will:** Currently, in England and Wales (again, Northern Ireland), generally, a person must be 18 years old to make a valid will. In Scotland, the minimum age is just 12 years of age. English law presumes that children from age 16 have the capacity to make a range of decisions, but not to create a valid will. The Law Commission wants anyone aged 16 and above to be able to make a will.

These and other proposed changes have been incorporated into a draft bill before Parliament. It is now up to the Government to decide whether to implement the recommendations, which could take a year or more. That is no excuse to procrastinate: a will, even governed by a nearly 200-year-old act, is better than no will.

The Law Commission's proposed changes to wills can be read [here](#).

WE CAN HELP

If you require any further assistance, please contact us on **01753 888 211** or email info@nhllp.com