



BLOG

New legislation allows video-witnessing of a Will during Covid-19

In July 2020, the Ministry of Justice announced that video witnessing of Wills was to be made legal during the coronavirus pandemic. As health concerns pushed many to take steps to make or update their Wills, practical considerations made it difficult for the document to be legally witnessed.

Witnessing a Will

Normally, the signature to a Will is witnessed by two people. Where the person making the Will, known as the testator, is not able to sign themselves, there could also be a fourth person in the room, signing on their behalf.

Everyone must be present at the same time and watch the testator sign or acknowledge their signature, in the event that they had signed the document previously.

The witnesses need to add their names, addresses and occupations, but do not have to have read the Will or be aware of its contents.

The job of a witness is to be able to say that the testator is the person who made the Will and signed it, that their signature is genuine, that the testator has not been coerced into signing and that they are mentally capable of understanding what they are signing.

The witnesses must be aged 18 or over and not the spouse or civil partner of the person making the Will or a beneficiary under the terms of the Will or the spouse or civil partner of a beneficiary.

It is permitted for someone named as an executor to sign the Will however.

Video witnessing

To enable those who are self-isolating during the Covid-19 outbreak to be able to make a Will, the law now permits the witnessing of a Will to take place via video, for example, over Zoom or Skype.

The government has made it clear that this should only be a last resort. The legislation currently allows video witnessing to take place until 31 January 2022, although this could be reduced or extended according to circumstances.

The witnesses will have to be able to see the testator signing the Will, so the video will need to show their face, hand, pen and the document, and not just head and shoulders.

The signature will have to be a real signature and not an electronic signature. The video must be in real-time and not a recording.

After the testator has signed, the Will must be sent to each witness for them to add their signature, preferably within 24 hours.

The importance of having a Will

By leaving a Will you can ensure that your estate passes to those to whom you would like to leave it. It can also reduce the likelihood of family disagreements.

If you would like to speak about the issues raised in this blog, email Victoria at victoria@ewps.ch for a no cost, no obligation chat.