



Important Legal Notes

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1. Testamentary Capacity & Undue Influence

To create a valid will, the person signing (the “testator”) must:

- **Understand they are making a will**
- **Understand the extent of their estate**
- **Understand who might reasonably expect to inherit** (such as close family)

The will must be made voluntarily.

The testator must not be **pressured, coerced, or manipulated**.

If there are any concerns about capacity (e.g. due to illness or age) or the influence of others, it is strongly recommended to seek advice from a **legal or medical professional** before signing the will.

2. Notes for EU Citizens – Brussels IV Regulation

The **EU Succession Regulation (Regulation EU No. 650/2012)** – also known as **Brussels IV** – allows EU citizens to choose the law of their nationality to govern their estate.

Key Points:

- UK did **not opt in**, but **EU citizens living in the UK can still elect their national law**
- If you do not make a choice, the law of **your habitual residence** at death applies
- To activate this choice, your will must say:

“I elect that the law of my country of nationality shall govern the succession of my estate.”

Dual Wills:

If you have property in both the UK and your EU home country:

- Make **separate wills** for each country
- Ensure each will **does not revoke or cancel** the other
- Seek legal advice in both jurisdictions

3. Spanish Nationals – Succession Law Guidance

As a Spanish national:

- **Spanish succession laws may apply**, even if you live in the UK
- Spain enforces **forced heirship**, meaning you may be required to leave portions of your estate to your spouse or children

Spain **did not opt in to Brussels IV**, so the ability to choose UK law is **limited** for Spanish citizens.

Recommendations:

- Draft **separate wills** for Spain and the UK
- In each will, clearly state that it **does not override the other**
- Seek legal advice in both countries

Inheritance Tax:

- Both Spain and the UK may tax your estate
- There is **no double taxation treaty**, but you may get unilateral relief

4. Spanish-Speaking Nationals (Non-Spanish Citizens)

If you are from a Spanish-speaking country outside the EU (e.g. Latin America):

- UK law generally applies to your estate in the UK
- The UK follows **testamentary freedom**, allowing you to leave your estate as you choose

Recommendations:

- Create a **UK will** for UK assets
- If you also have property in your home country, make a **second will** there
- Each will should state:

“This will does not revoke any other valid will made for assets in other jurisdictions.”

Inheritance Tax:

- UK inheritance tax applies above certain thresholds
- Check for a **double taxation agreement** between the UK and your country

5. Choosing Guardians for Minor Children

If you have children under 18, your will should name a **legal guardian**.

This provides:

- Stability and certainty for your child
- Legal authority for the guardian to make decisions

If No Guardian Is Named:

- The courts decide
- Your child could be placed in temporary care
- Family disputes may arise

Requirements:

A guardian must:

- Be **at least 18 years old**
- Be **mentally capable**
- Be **willing and able**
- Not be legally disqualified

Why Appoint a UK-Based Guardian First?

If your chosen long-term guardian lives abroad:

- Appoint a UK-based guardian first
- This ensures immediate protection for your child
- Your UK guardian can later assist in transferring custody legally to the international guardian

Tips:

Talk to guardians beforehand

- **Review your choice regularly**
- You may write a short **explanation letter** (optional)

This document is for guidance only. Please consult a solicitor for cross-border or complex estates.

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