

Revoking a will



A testator can revoke their will at any time during their life. Section 18 and 20 of the Wills Act 1837 specify that a will can be validly revoked if the testator executes a revocation statement, creates a new will, destroys their old will, or enters in to a marriage or civil partnership.

Revocation statement

A will can be revoked by a revocation statement. This must comply with the formalities for executing a will which are outlined in s9 Wills Act. This means it must be in writing, signed by the testator and in the presence of two or more witnesses who each sign in the presence of the testator.

Creating a new will

Most professionally drafted wills will contain a revocation clause and will therefore revoke a testator's former will. Any later will must be valid and, again, comply with the execution formalities set out in section 9 Wills Act.

If a later will does not contain a revocation clause, it will only revoke a previous will to the extent that it is inconsistent with it.

Destruction

A will can be revoked if the testator burns, tears or otherwise destroys it, or if someone else destroys it at the direction and in the presence of the testator. The testator must also have the intention to revoke the will when destroying it and have capacity to understand the effect of doing so and the extent of their property.



If a will has been destroyed, it is presumed that the testator intended to destroy it, however, this presumption can be rebutted with evidence. In practice, to avoid confusion on their death in these circumstances, a testator should also make a clear note of their intention to revoke their will.

Marriage

A will is automatically revoked when a testator gets married or enters into a civil partnership. However, this rule does not apply if the will specifically states that it has been made in contemplation of the testator marrying or entering a civil partnership with a named partner.

Divorce does not automatically revoke a will, it does, however, revoke any provision which refers to the testator's former spouse.

If a will is revoked and no later will is executed then a testator's estate will pass under the rules of intestacy.

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