

PUBLICATION

Estate Planning During Crisis: The Holograph Will

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Like many of you, we are watching the news on the COVID-19 pandemic closely. Our Wills, Trusts and Estates group is available, working remotely, to continue to support our clients with their estate planning needs. We also understand that this may not be possible in this unprecedented time.

Not having a valid will can add to an already anxious situation; however, you can do something that may be better than doing nothing. Section 16 of the *Wills and Succession Act* allows a person to make a “holograph will”:

16 A will may be made by a writing that is wholly in the testator’s own handwriting and signed by the testator without the presence or signature of a witness or any other formality.

This means you can have a valid will if (a) you hand-write the document, and (b) you sign it. The most basic and necessary provisions include the following:

- A statement that this handwritten document is your last will and testament.
- A statement that you revoke all prior wills.
- The appointment of an executor to administer your estate, and an alternate executor to act if the first named executor cannot or will not act.
- The appointment of a guardian for all minor children, and an alternate guardian to act if the first named guardian cannot or will not act.
- The bequests you want to make. The easiest way to do this is to treat your entire estate as “residue” (i.e. everything after debts and liabilities paid) and to gift the residue to someone. You should also name another person/persons to inherit if the first named beneficiary does not survive you. For example: I direct my executor to pay or transfer the residue of my estate to my wife. If my wife fails to survive me, I direct my executor to pay or transfer the residue of my estate in equal shares to my children who survive me.

Doing nothing may be acceptable in your circumstances but we want you to know that dying without a will means that you've died intestate, and Part 3 of the *Wills and Succession Act* determines who will inherit property in an intestacy. The *Estate Administration Act* sets out who would have priority to apply to the Court for a Grant of Administration. This means someone will be able to obtain authority from the Court to administer your estate and distribute your property to those statutorily entitled to it.

Should you require legal advice, or should you require more information, please contact any of our [Wills, Trusts & Estates lawyers](#).

Please note that this article does not constitute legal advice. It is intended to identify basic issues, and is not meant to be interpreted with specific application to any factual scenario.