



## Wills

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### Why make a will?

Four of the most common reasons for making a will are:

- You choose who gets what and, perhaps, when they get it;
- You avoid the intestacy laws which would otherwise apply to your estate and which may seem like little more than a lottery to your family;
- You discharge your moral responsibility to your family to ensure that they are well looked after and that your affairs are left in order;
- You take advantage of any opportunities to save inheritance tax and other death duties.

But before making a will you might carefully consider what you own and how you own it. You may want to plan how you alter things in anticipation of making a will.

### Why make a will in Monaco?

In Monaco there is an additional, important reason for making a will – forced heirship. If you are resident and domiciled in Monaco or own real estate in Monaco, then the local forced heirship rules may apply to you. Under these rules a specified proportion of your estate must be left to your children. If you have one child, he or she must receive at least one-half of your estate. If you have two children, they must receive not less than one-third each. If you have three or more children, they must receive not less than three-quarters of your estate collectively. A spouse has no automatic right to a share of your estate but a spouse may take via another route: a marriage regime. In certain circumstances these rules may apply to your worldwide estate. Even if you are happy to be bound by these rules you may not wish your children to receive their share absolutely at 18. Will it spoil them and is it wise? What if your child makes an unfortunate marriage? Or moves to a high tax country?

Depending on your nationality and the type of will which you make in Monaco, it may be possible for you to avoid these forced heirship rules.



## Types Of Will In Monaco

There are three types of will in Monaco: authentic, holographic and mystic. An authentic will must be read out to the testator in front of one notary and four witnesses or two notaries and two witnesses. A holographic will must be hand-written in full by the testator, signed and dated. A mystic will must be signed by the testator and sealed. The signed will must then be handed to a notary in a sealed envelope in the presence of four witnesses.

In addition, wills made in a form recognised by your national law may be recognised in Monaco, but there are some pitfalls.

### Be warned!

Trusts will not always be recognised in Monaco, even if in 2008 Monaco effectively introduced the Hague Convention on the Law Applicable to Trusts and on their Recognition of 1985 which has reinforced the circumstances in which trusts are going to be recognised. If you are resident and domiciled in Monaco or own real estate in Monaco, leaving a standard English-style will may create problems in spite of the Convention because a typical English will contains a clause leaving your estate "on trust" to your executors and trustees. Such a clause may lead to the entire will being declared void as a consequence of a provision in Law 214 and local intestacy rules risk being applied. So it is best avoided, even if this concern was born of concerns before adhesion to the Hague Trust Convention.

### Law 214

This is a Monaco law aimed principally at citizens of common law countries living in Monaco. It allows them to create trusts in Monaco either during their lifetime or by will. It is not necessary for trusts created under Law 214 to follow Monaco's forced heirship rules. Even if you approve of local forced heirship rules, you may want to consider a trust made under Law 214 to defer the age at which your children inherit or protect them from unfortunate claims (eg on divorce).

## How can we help?

Our office has existed in the Principality since 1979. We are the only English based international law firm in the Principality. Between our Monaco, Dubai, Moscow and London offices we have the strength and depth to offer a full legal service to both local and international clients. We aim to advise our clients in an efficient and cost effective manner and with a particular emphasis on commerciality and confidentiality.

We speak a number of languages including English, French and Icelandic. We have a client base which includes entrepreneurs, entertainers, financial or banking services companies, fund managers, trust companies, sporting personalities and international families from many jurisdictions.

Beyond its London, Dubai, Moscow and Monaco offices LG has strong relationships with law firms throughout the US, Asia and around the world. These relationships enable us to advise comprehensively on any matters with an international dimension.

### Contact Details

For further information, please contact  
William Easun  
E/ [william.easun@lg-legal.com](mailto:william.easun@lg-legal.com)  
Peter Walford  
E/ [peter.walford@lg-legal.com](mailto:peter.walford@lg-legal.com)

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