

It's not a joke if you don't revoke: the importance of properly amending a will

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Executing a will is important to ensure that upon your death, your assets are allocated accordingly to your wishes. When you die without a will, you die 'intestate' and your estate may be dealt with differently from what would have been the case if you had made a will.

You can amend your will as often as you wish. Often they are amended when your circumstances change, for example when you buy a property, get married or have children. It is also important to revisit your will upon divorce due to the implications under the law.

When amending a will it is essential that you revoke (or cancel) the previous will. This can be carried out by an act evidencing an intention to revoke, for example, the destruction of a will with the intention of revoking it, a simple declaration that the will is revoked, and the making of a subsequent testamentary instrument, the provisions of which are wholly or in part inconsistent with the provisions of the earlier instrument.

In the recent case *Representation of Anthony Paul Del Amo [2022] JRC 190* the deceased had arranged for new wills to be prepared but died before he executed them. It was questioned whether the earlier wills had been revoked so that he died intestate or whether the earlier wills remained valid. The Court could not conclude that the deceased had revoked his wills and intended to die intestate and therefore ruled that the earlier wills remained valid.

We would advise that you seek legal advice before revoking a will or part of it so that the consequences of so doing are known to you before the act of revocation is carried out.

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