

Your executors are also responsible for the payment of your debts, funeral and other expenses. As your executors are responsible for managing your property during the administration of your estate (that is the period before your property is transferred to your beneficiaries), they should be capable of running your farm business during the period following your death. In most cases the most appropriate person to appoint as one of your executors will be your successor in the farm business.

The executors will usually be responsible for submitting documentation to HM Revenue and Customs in connection with obtaining the Grant of Probate. This will involve the listing and valuing of all your assets.

Other reasons for making or updating your Will:

Single Farm Payment - The introduction of the Single Farm Payment (SFP) has resulted in potential difficulties with Wills made before 2003. Wills which were made before SFP was introduced do not specifically mention SFP or entitlement to SFP. There is, therefore, the potential for this asset to be distributed with the residue of the estate rather than pass to the person who inherits the farm business.

Inheritance Tax - Until recently, Inheritance Tax was not an important factor with farmers making Wills. Usually, agricultural land and the other farm business assets passed to the next generation on death without any tax being paid. However, recent developments have made Inheritance Tax an important consideration namely:



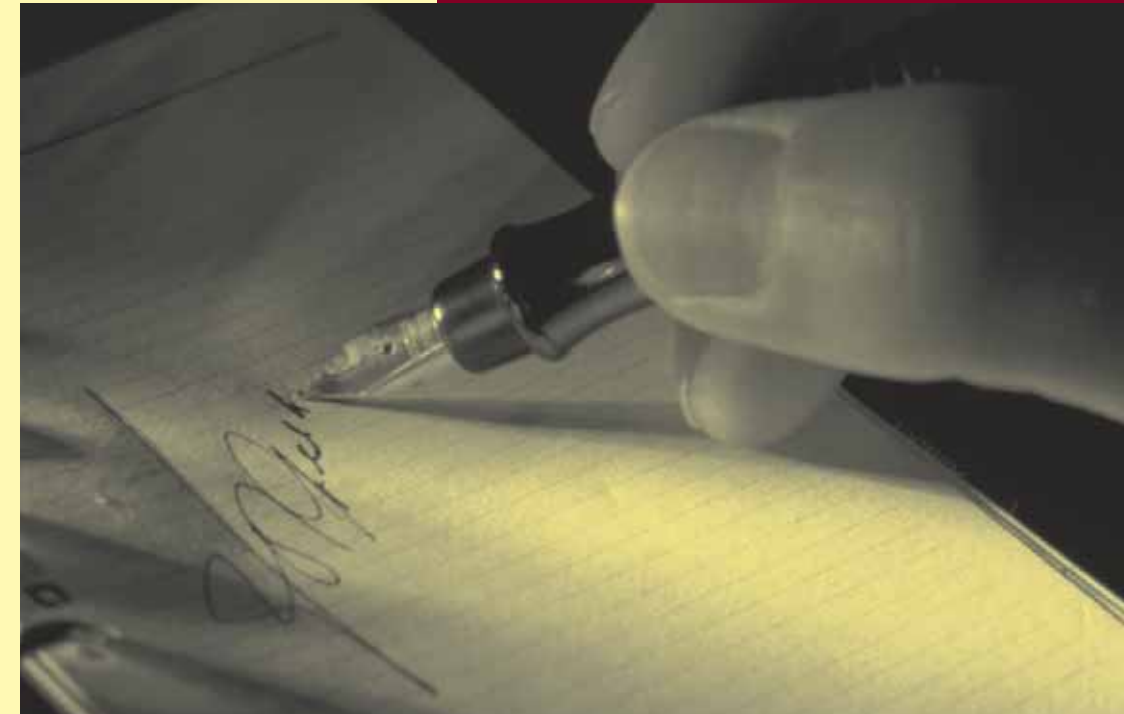
Succession Planning for Farmers

- (a) the increase in property prices (and development value attached to some agricultural land);
- (b) the related increase in the value of farmhouses and the increase in the number of second dwelling houses on farms;
- (c) the advent of Single Farm Payment, and its potential impact in that more older farmers retire and set their land in conacre whilst receiving Single Farm Payment as income.

A solicitor, with relevant experience, can assist you in carefully considering these issues and the appropriate tax reliefs with regard to making or reviewing a Will.

Key Points

- Avoid unnecessary disputes and delays by making a Will.
- If you have already made a Will, do not assume that you need to take no further action - be sure to update your Will every two to three years.
- Use a solicitor with knowledge of the farming sector.
- Appoint two executors, one of whom has a good knowledge of your particular farm business and is younger than you.

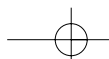


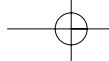
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Traditionally, family farms in Northern Ireland have been passed to the next generation on death. More recently, social and economic changes have meant that many farm businesses are now transferred to the next generation during the owner's lifetime.

Passing on ownership of a farm business can be stressful, whatever the circumstances. However it can be particularly difficult when the transfer is unplanned through illness or the sudden death of the owner. It is therefore important that you, as the current owner, have considered your options and have made legal arrangements to ensure that your wishes for the future ownership of your farm business are carried out.

If, having consulted your solicitor and accountant, you decide to retain ownership of some or all of the farm business until your death, it is important that you make and regularly update your Will.

The risks involved in not making a Will

If you do not make a Will, your spouse will not automatically inherit all of your property after your death; instead it will be divided according to the rules of intestacy, between your next of kin. These rules are rigid and may mean that the farm business will be divided between a number of relatives. This can often cause disputes within families and the break up of the farm business.

In addition, the absence of a will can result in a delay in the payment of money due to the farm business (including DARD payments) pending a legal decision as to who is entitled to receive such payments.

The benefits of making a Will

It is important that you make and regularly update a Will, to provide certainty and clarity regarding the division of your estate and to avoid the potential for disputes and delays.

If you choose to make a Will, it must be carefully drafted as a poorly made Will may be worse than no Will at all.

It is important that you choose a solicitor who understands the specific issues involved in the transfer of a farm business and executors who have a good knowledge of your particular business. As your executors will be responsible for executing your wishes as stated in your Will, it is important that at least one of them is younger than you.

Farm Business Assets

It is vital that all the assets of the farm are dealt with in such a manner so as to ensure that they pass to the person you intend. When you are making a Will, it is very important that you ensure that your solicitor has knowledge of all of the assets involved in your farm business. This may include, not only the land but also the livestock, plant and machinery, milk quota, entitlement to

Single Farm Payment and any entitlement to grant payments under schemes such as the Countryside Management Scheme or the Farm Woodland Grant Scheme.

You should also discuss who will be responsible for the payment of any outstanding farm debts and who will be entitled to monies which are owed to the farm business on your death.

If all the assets of the farm are not dealt with specifically, then your Will may be open to misinterpretation or challenge and certain assets may pass to someone other than the person you intended. It is also important that your Will is regularly updated to take account of changes in the farm business, assets owned, family circumstances and changes in the law.

In drafting a Will, it is often advisable to leave specific non-farming assets to non-farming family members and to leave any farm related assets to your farming successor together with the residue of your estate.

Grant of Probate and Executors

If you die leaving a Will, the usual procedure is that your executors obtain a legal document called a Grant of Probate. This document gives your executors the legal authority to deal with your property and to ensure that it is passed on to the persons named in your Will. A delay in the Grant of Probate will result in a delay in the payment of money due to the farm business (including DARD payments).

