

The ability to remotely witness a Will has ended

Synopsis: The relaxation of the requirement for Will attestation, allowing for remote witnessing, which ended on 31 January 2024.

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As no last-minute extension was announced by the Government, Wills can no longer be witnessed by video link.

Prior to the Covid-19 pandemic, in simple terms a validly executed Will was...

- In writing
- Signed by the person making it ('the testator'), in the physical presence of two independent witnesses; and
- The witnesses have signed it in the presence of the person making it.

Lockdown restrictions suddenly created the need for change and, so, the Government amended Section 9 of the Wills Act 1837 to say that, in relation to Wills made after 31 January 2020, "presence" includes presence by means of video conference or other visual transmission, so that witnesses to Wills did not need to be physically present at the signing, but could be legally present, over a video link. [Section 9 of the Wills Act 1837](#) states...

No will shall be valid unless—

(a) it is in writing, and signed by the testator, or by some other person in his presence and by his direction; and

(b) it appears that the testator intended by his signature to give effect to the will; and

(c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and

(d) each witness either...

(i) attests and signs the will; or

(ii) acknowledges his signature,

in the presence of the testator (but not necessarily in the presence of any other witness), but no form of attestation shall be necessary.

[For the purposes of paragraphs (c) and (d) of subsection (i), in relation to wills made on or after 31 January 2020 and on or before 31 January [2024], "presence" includes presence by means of videoconference or other visual transmission.]

The process of video witnessing of Wills was applied for an initial two-year period from 31 January 2020, but was then further extended to 31 January 2024.

The Law Commission has undertaken a consultation, which ended in December 2023, seeking views on whether a new Wills Act should permit electronic wills, either immediately or by allowing for them to be introduced later.

However, unless the Government reintroduces video witnessing of Wills, this is no longer an option and witnesses must be in person. The ability to witness a Will's execution by video link has ended.

Comment

Whilst social distancing and lockdown restrictions made remote witnessing a necessity for all for a time, it is not at all clear just how popular this method was as time went on, given that the process is far more complicated than simply having to have two witnesses physically present. Although, of course, the challenges faced by those wanting to make a Will and who were (and still are) also shielding and isolating have not gone away.

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