

Guide to making a Will in the TRNC

Whether you are a permanent resident or someone who only visits a few times a year, we recommend that you have a will prepared if you own a property in the TRNC. By Cap 195 of the Laws of Cyprus a British expatriate has complete freedom of disposition of his/her movable (basically, personal possessions or money) or immovable property (i.e. a house/land) by Will. TRNC nationals and other foreigners do not have complete freedom to dispose of their entire estate in this way.

Making a will is very easy to do and ensures that all your belongings will be shared between the people of your choice. An important point that should be noted is that if you die intestate (i.e. without leaving a Will) your spouse will not automatically inherit your estate, if there are surviving children (in which case a surviving spouse will only receive a 1/6th share and the remaining 5/6th will go to any surviving children) or other specified relatives.

It is a common misconception that the State is automatically entitled to your estate if you do not make a Will. It's worth noting here that the state, by law, only becomes entitled to an estate should there be no "next of kin". Given there are six degrees of kindred to be considered, it is usually viable that there will be living relatives to enable the estate to go to next of kin and not the State. The Sixth degree includes a Second cousin or Great Great uncle's son, for example. If a person dies with no "next of kin" within the Sixth degree he shall be considered to have died without heirs, in which case his estate shall revert the Government. In the UK, the estate, in those circumstances, will revert to the Crown.

A will prepared in the UK does not automatically cover your estate here, so you will need to have a separate one prepared. However, it is possible, if you leave a will in the UK covering your property in Northern Cyprus, in the event of your death, to complete the probate work in the UK and then, once the Grant of Probate has been issued in the UK, to apply to the courts here for the Grant of Probate to be re-sealed and re-validated for use in the TRNC so that the terms of the Grant of Probate and the will can be applied to the estate here. However, this can be a lengthy process and the UK Grant of Probate must be obtained and certified by the TRNC consulate in London together with various other original documents.

The simplest way to ensure that your assets are protected and to avoid doubt about the validity of the will is to prepare and sign your will with a lawyer in the TRNC and lodge it with the Probate Registrar at the District Court. This Will should cover just your property in the TRNC and should be separate to any other wills you may have made in any other country covering your property in that country.

You will need to complete our Will Information Form to ascertain exactly what needs to be included, who you wish your executors to be and who you wish to benefit under your Will. An executor can also be a beneficiary. A standard clause in a Will would include provision for all real and personal property i.e. real estate and land and personal belongings including monies held in a bank account. Obviously depending on your own personal circumstances, you may want to include specific bequests or legacies and add certain items that are unique to you.

The wording is generally quite standard and not too dissimilar to that of a will prepared in the UK these days, having been streamlined and less wordy and jargon orientated. It will be written in English as well, so it will be easy for you to determine any alterations or additions that may need to be made.

We can then arrange an appointment for you to come and sign your will. Under TRNC Law, for a will to be valid, the testator (the person making the Will) must be over 18 and of sound mind. The

will has to be signed at the end by the testator in the presence of two witnesses, who must be present at the same time, and these witnesses must attest the will. If the will consists of more than one sheet of paper, each sheet must be signed or initialled by the testator and the witnesses. It is good practice to lodge a copy of the will with the Probate Registrar at the local District Court. You will be taken to the informal appointment by one of our staff who knows the process. The Probate Registrar checks the will to ensure the above formalities have been complied with and checks the identity of the testator. This reduces the risk of anyone contesting the will in the future on the ground that it was a forgery or that the relevant formalities had not been complied with. The original Will is stamped and filed at Court and you will receive copies with an official receipt.

If the will is signed outside of the country but states that it covers property in the TRNC, providing the above formalities have been complied with, it will be valid. However, in the event of death, proving the will can more difficult. Sometimes, as part of the probate procedure, the witnesses to the will are required to attend court or sign documents. This may be complicated if they live abroad. Further, the Probate Registrar at the District Court will not accept the registration of wills signed outside of the country.

Upon the event of your death the appointed executor or executors of your will then need to apply to the Probate Court for a Grant of Probate or Administration. The Grant of Probate/Representation is issued by the Probate Registry and gives the Executor or Administrator the authority to administer your estate according to the law and the terms of your will. Unless your lawyer is appointed as Executor, your “lay” executors will need professional advice and help from a lawyer in this regard.

It is important to review your Will regularly to make sure it does not need amending. Name changes or change of addresses do not necessarily mean you need to make a new Will but you should keep evidence of such changes so that your Executors can produce any documentary proof required by the Court.

The cost of preparing a will here, including our fee and the lodging of the documents in Court, including the necessary Court stamps, is £250 per will including VAT.

Please contact us if you wish to make your Will and we shall be pleased to assist you.

This guide has been prepared by Advocate Naomi Mehmet of Naomi Mehmet & Partners

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