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LANDFALL GUIDE · SCOTLAND

How do wills and estates work in Scotland?

THE SHORT ANSWER

Scotland has its own law of succession. A spouse and children have "legal rights" to part of your money and belongings that a will can't override, estates go through "confirmation" rather than probate, and unmarried partners have limited rights. A US will may not work smoothly here, so many Americans in Scotland make a Scottish will coordinated with their US one.

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General information, not personal tax, financial, legal or immigration advice.

Legal rights: what a will can’t change

In Scotland, a spouse or civil partner and children have **legal rights** to part of your **movable estate**: money, investments and belongings, but not land or buildings.

Who	Legal rights share of movable estate
Spouse or civil partner, if there are children	One third
Spouse or civil partner, if no children	One half
Children together, if there’s a spouse	One third
Children together, if no spouse	One half

They can claim these instead of what the will leaves them. This surprises people from US states where you can leave your estate however you choose.

If there’s no will

Scotland’s intestacy rules give a surviving spouse **prior rights** to the home (up to a limit), its furnishings and a cash sum, followed by legal rights, and then the rest passes to relatives in a set order. **Unmarried partners don’t inherit automatically**; they can apply to the court, but only within six months.

Confirmation, not probate

Executors apply to the **sheriff court** for **confirmation**, which gives them authority to collect and distribute the estate. Assets in the US may need a separate US process.

Your US will

A US will can be **recognized** in Scotland if it was validly made, but it can cause delay and cost in practice. Many Americans here:

- make a **Scottish will** for UK assets, and keep a **US will** for US assets
- make sure each one says clearly what it covers, so neither cancels the other

Powers of attorney

A US power of attorney may not work in Scotland. Scottish **powers of attorney** are registered with the **Office of the Public Guardian (Scotland)**.

Inheritance tax and US estate tax

- **UK inheritance tax** now depends on residence. After about **ten years of UK residence**, your worldwide estate can be in scope; before that, mainly UK assets.
- As a US citizen, your worldwide estate stays within **US estate tax**.
- The **US–UK estate tax treaty** helps prevent the same estate being taxed twice.
- Leaving assets to a spouse who isn't a US citizen, or isn't long-term UK resident, can have **limits on the usual spouse exemptions** in both countries.

What to do next

This is an area for a Scottish solicitor working with a cross-border tax adviser. Build your move plan with Scotland as your destination.

See every step for your move. Answer five questions and get a free plan in the right order: yourlandfall.com/plan