

LEGAL UPDATE

Changed your will? Think about your life insurance!

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In a will, a testator names his heir(s), who will receive his assets after his death. These are often the testator's spouse and/or children. In addition to naming one or more heirs in the will, a life insurance policy can be taken out that pays a sum to one or more beneficiaries, such as the testator's spouse and/or children. In this way, a testator can ensure that his loved ones will be well cared for after his death.

But what if there are changes in the life of a testator after he has drawn up his will? What if remarries and wants to ensure that this new partner is also well cared for after his death, for example? In that case, he could obviously change his will and name his new partner as an heir. But he should be aware that this does not automatically make this new heir a beneficiary of the life insurance policy.

The Dutch Supreme Court [ruled](#) on such a case on 6 July 2018. The testator had changed his will and named his girlfriend as his sole heir. However, as he had not changed the beneficiary designation on his life insurance policy, his children claimed that as the designated beneficiaries they were entitled to the insurance benefit after his death.

Did the children have a legitimate claim to the benefit? Or was the girlfriend entitled to it because she was the sole heir?

After years of litigation, the Supreme Court confirmed the judgment of the Court of Appeal in this case. The Court of Appeal found that, in view of the circumstances, the children could not claim the benefit according to standards of reasonableness and fairness, meaning that the testator's girlfriend, his heir, was entitled to it. One of the reasons for this was that it had been established that the testator wanted to ensure that his girlfriend would be well cared for after his death, which could only have been achieved by designating her as a beneficiary. So, in the end, everything turned out fine for the girlfriend (not for the children) but she had to litigate for years.

Therefore, when you change your will, it is advisable to also consider the designated beneficiaries on your life insurance policies. Are these still the people you want to whom you want the insurance benefit paid out after your death?

If not, you should change the beneficiary designation.

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