

Brief instructions on how to fill in the Last Will and Testament

For more details contact your local Aalim or lawyer

Page One

1. The first page is a cover page for the will and should have the full name, surname and ID number of the testator / testatrix.
2. The testator / testatrix means the person making out a will.
3. Under South African law any person of the age of 16 years or over may make a will.

Page Two

1. On the second page, the testator / testatrix will fill in their full name, ID number, current residential address and marital status. Tick the applicable block and fill in your spouse's name.
2. Clause 3 is where you appoint one or more executors to execute the will. Fill in their full names and ID numbers.

Some points to note regarding the executor:

- 2.1 Executors of the estate may be relatives who stand to inherit from the testator / testatrix, lawyers, Ulama bodies, or any other reliable and trustworthy Muslims.
- 2.2 The executor needs to fulfill certain tasks on the death of the testator / testatrix so appoint someone who will be able to carry out these duties.
- 2.3 **The executor needs to fulfill the following among other duties:**
 - a. Report to Master of the High Court within 14 days with name of executor and the will. The executor needs to have access to the will, check its validity, establish who the beneficiaries are, and get a rough idea of the assets and liabilities of the estate.
 - b. The executor needs to make an inventory of assets at death. In order to accurately complete this task, the executor needs to gather items such as bank accounts, title deeds to property, policy documents and any other documentation that they can find linked to the financial affairs of the deceased.
 - c. The executor needs to get copies of the death certificate to close accounts, wrap up the estate, and inform account contractors such as cellphone providers, etc.
 - d. The executor needs to apply to the Master of the High Court to be formally appointed and granted the necessary powers to administer the estate. This process

can take up to six weeks. In order to expedite this process, take the following documents along to the Master's office:

1. The original will.
2. The death notice.
3. An inventory.
4. A certified copy of the death certificate.
5. An acceptance of trust form, in duplicate.
6. A next of kin affidavit.
7. An affidavit that the estate has not been reported to another Master's office.
8. A list of creditors.

2.4 If no executor has been appointed or there is no will, contact a Muslim attorney.

3. At the end of every page of the will is a place for the testator / testatrix and two witnesses to sign.

Keep in mind that for a will to be valid:

- a. It must be signed by the testator/testatrix.
- b. The testator / testatrix should sign with his/her usual signature.
- c. The signature must be made by the testator / testatrix in the presence of two or more competent witnesses present at the same time.
- d. Every page of the Will must be signed by the testator / testatrix as well as the same witnesses who attest at the end of the will, all being present.
- e. The heirs of the testator / testatrix at the time of making out the will, may not be witnesses to the will. For this purpose select such people who do not stand to inherit.
- f. Every person who is over the age of 14 years is competent to witness a will under South African law. Ensure that they are not minors.

Page Three

1. Clause 8 on page three deals with the unfulfilled obligations of Islam. These can only cover a maximum of one third of the net value of the estate after the payment of all debts including funeral expenses. Ascertain from your local Islamic scholars the exact amount and complete details at the time of payment.
2. Keep an updated list with your Will listing unfulfilled Zakaat, Salaah, Hajj, etc. to make it easier for the executors and the Ulama body to determine these amounts. A template entitled Islamic Obligations is available from Al Hidayah Centre or can be downloaded from the website.

3. Clause 9 is for bequests to any person who is a non-heir, charitable institutions, etc. This is also limited to a maximum of one third of the net value of the estate after the payment of all debts.

Page Four

1. A list of the heirs/relatives must be drawn up upon the death of the testator / testatrix, to enable qualified Islamic scholars mentioned in clause 11 to ascertain heirs and apportion each one's Islamic share. The certificate issued by the appointed Islamic body or person is submitted to the Master of the High Court to determine shares of the heirs.

Page Five

1. The last page needs to be signed and attested by two witnesses with signatures, names and ID numbers, as well as the signature and name of the testator / testatrix and their name. All must sign in the presence of the others.

IMPORTANT NOTE:

1. Wills should be kept in a place that is safe and where it can be easily found after the death of a testator / testatrix.
2. The testator / testatrix must inform a reliable person of the whereabouts of his/her Will.
3. Keep an updated list with unfulfilled Salaah, etc. together with the Will.
4. It also helps to keep an updated asset and debts list with the Will, especially with regards to property, etc. of which only you have knowledge.

DOWNLOAD LAST WILL:

<http://alhidayah.co.za/last-will/>