



Islamic Will Writers

UK & SHARIAH COMPLIANT WILLS

GUIDANCE NOTES FOR COMPLETING THE QUESTIONNAIRE

Please read these instructions carefully before completing the questionnaire. If you have any questions please contact us on info@islamicwillwriters.com and we will endeavour to get back to you as soon as possible.

PART A – PERSONAL DETAILS

It is very important that you provide us with your full name, including middle names, with the correct spelling. If there is any difference between what you are known as and the name that goes on your will then the Probate Courts may hold your Will invalid.

Your marital status

Your marital status has a lot of bearing on how your estate is to be distributed upon your death.

Married - If you are married please provide details of your spouse. Under English law, couples usually draft wills known as 'mirror wills'. This is when the husband and wife each make a will which mirrors the other – hence the term 'mirror'. Unfortunately, under Islamic law mirror wills are not possible because the distribution of wealth specified in the Qur'an is different for you and your spouse.

For example, if a man dies his wife would get a 1/8 share and their children together with any other children **he** has from previous marriages would get a share each. **His** parents would also get shares. However, if a woman dies her husband would get 1/4 share and their children together with any children **she** has from a previous marriage would get a share each. **Her** parents would also get a share.

It is also very important to confirm whether your marriage is nikah only or has also been registered in England and Wales. If you have not registered your marriage then you are deemed not to be married according to the laws of England and Wales. This is especially important if your estate is worth more than the inheritance tax threshold (£312,000 for 2008/09) as the special tax saving allowances will not apply to you.

Contemplating marriage – If you are contemplating marriage please provide us with details of your future spouse and the date of the marriage. A Will is automatically revoked upon marriage. However, if you provide us with details of your forthcoming marriage we can draft your Will so that it takes this into account thereby avoiding

the need to re-draft/amend the Will. Please also note that the shares and beneficiaries for a single person are very different to the shares and beneficiaries of a married person.

Divorced or separated - If you make a Will and then get divorced, any gift made to your former spouse will become invalid. If you are separated but not yet divorced then that will affect how your shares are distributed. If you are still married your spouse will get a share under Islamic law even though you may be separated.

PART B – FAMILY MEMBERS

Children

Please provide details of **all** of your children regardless of their age. Also include any children whom you may have from a previous marriage.

Please note that under Islamic law step-children, adopted or illegitimate children are not regarded as legal heirs – in other words they are not automatically entitled to a share of your estate. Please **do not** give details of any step children or adopted children in this section – give these details in Part H and in Part F if you wish to leave them something.

Parents and grandparents

The Qur'an specifies that parents are entitled to a share of your estate. If one or both of your parents are deceased please provide details of your grandparents as they take the place of your parents and would be entitled to a share.

PART C- YOUR ASSETS

Please give as much information as you can about your assets. It is advisable to do a rough calculation of the value of your estate, even though it may change at the time of your death. If your assets are worth more than £312,000 (2008/09) then inheritance tax at 40% may be payable on death. We have specialist tax advisors on board who can advise you on measures you can take to reduce the inheritance tax that might become payable.

PART D – APPOINTMENT OF EXECUTORS

Executors are persons appointed by you to effectively be your representatives. It is important to appoint trustworthy and reliable individuals as they will be responsible for administering your estate after your death and carrying out the provisions of your Will. This involves valuing your estate, paying out any debts and expenses, dealing with the probate courts and ultimately distributing your wealth in accordance with your Will.

You should check with your proposed Executors that they are willing to take on this onerous role which could be lengthy and time consuming. It is best to appoint two executors to manage your estate on your death especially if you have any children

under 18 years of age. If you prefer, you can choose a professional, like a Solicitor or an Accountant. They do usually charge a fee for this service.

You may also want to appoint substitute executors in the event that the original executors die before you or do not want to take on this role for whatever reason.

PART E – APPOINTMENT OF GUARDIANS

If you have children you should appoint Guardians in the event that **both** parents die before the children reach 18 years of age. You should choose a young couple whom you trust and who can offer the best care for your children and are able to give them Islamic teaching you approve of. This is particularly important if you have non-Muslim relatives and want your children to be raised as Muslims. You should check with your proposed Guardian(s) that they are willing to take on this onerous role should it become necessary.

If you would like your children to be raised in a particular manner, for example, follow a specific aqeedah, it is advisable that you leave a letter of wishes with your Will. Please note that they will be treated as mere wishes and will not be legally binding should your proposed Guardians choose not to follow them. You should brief your proposed Guardians of your wishes so that they are fully aware of their role should it become necessary.

If you would like us to draft a letter of wishes please set out your wishes on a separate sheet and send it to us with the questionnaire. Please note that a letter of wishes does not form part of the Will and will incur a further charge which is dependent upon the amount of work that will need to be undertaken to draft the letter. Prices start from £15.

You may also want to appoint substitute Guardians in the event that the original Guardians pre-decease you or become unwilling to take on the role.

PART F – DISTRIBUTION OF 1/3RD OF YOUR ESTATE

The Qur'an outlines the Islamic laws of inheritance and specifies the legal heirs and their entitled shares, i.e. the closest relatives (spouse, children and parents) are automatically entitled to a share.

However, the Sunnah of our beloved Prophet Muhammad (peace be upon him) provides that a maximum of 1/3rd of your estate may be left to beneficiaries not automatically entitled according to the Qur'an. This would be relevant, for example, if you have non-Muslim family as non-Muslims cannot be legal heirs.

Within this 1/3rd you may also leave a gift to a charity. Leaving 'Sadaqah Jariyah' is one of the only three ways in which you continue to be rewarded after your death. You may leave something to a specific charity dear to you. However, if this charity ceases to exist at the time of your death the gift will fail. One way round it is to make

the gift more general, e.g. by specifying a charity or any other similar causes should your named charity cease to exist anymore.

It is better to state in percentage or fraction how much you would like to leave as gifts rather than specific amounts. This will take into account inflation and will also ensure that you do not go over the 1/3rd requirement.

It is very important to note that The Inheritance (Provisions for Family and Dependents) Act 1975 enables certain people to make a claim for a provision out of your estate after your death. You should consider making a gift to people who are financially dependent upon you but are not automatically entitled to a share according to the Qur'an. For example, illegitimate and adopted children have the same rights of inheritance under English law but not under Islamic law. They would be entitled to make a claim should no provision be made for them.

Please note that the legal heirs receive their entitlement **after** all debts, expenses and gifts have been paid out. Any gifts made will therefore reduce the amounts that will be left to distribute to the legal heirs.

PART G – FUNERAL INSTRUCTIONS

It is not possible to legally bind your Executors to carry out your funeral and burial wishes. However, it is advisable to leave some instruction to avoid undesirable rituals taking place after your death. Our Wills contain provisions instructing that you have an Islamic funeral and burial.

It is not recommended that you leave specific instructions in your Will on exactly how you should be buried. These should be stated in a letter of wishes which should be kept with your Will. You should also make your loved ones aware of how you should be buried as there is the danger that your Will and any accompanying letters of wishes are not viewed until after you have been buried.

We do have standard detailed instructions on funeral, burial and the grave and general advice on condolences and mourning which are in accordance with the Sunnah of our beloved Prophet Muhammad (may the peace and blessings of Allah be upon him). These can be incorporated into a letter of wishes to be kept with your Will. Alternatively you can leave your own instructions. Please note that there is an additional charge of £15 for our standard letter. The fee for drafting a letter with your instructions is dependent upon the work that will be involved.

PART H – ADDITIONAL INFORMATION

Please provide any other information you think may be relevant. Also please give details here where you have been instructed to do so in other sections, e.g. details of your assets.

PART I – DECLARATION

Please check through the questionnaire to verify the information you have supplied is correct and complete. Please sign and date in this section to confirm your instructions to us to draft your Will.

WHAT TO DO NEXT

Please send your signed questionnaire together with a cheque for £100 made payable to Islamic Will Writers to:

Islamic Will Writers
33 Manor Row
Bradford
BD1 4PS

We will review your questionnaire and draft your Will based on the information provided. In the meantime if you have any queries please do not hesitate to contact us.

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