

## بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْحَمْدُ لِلَّهِ الَّذِي أَرْسَلَ رَسُولَهُ بِالْهُدَىٰ وَدِينِ الْحَقِّ لِيُظْهِرَهُ عَلَى الدِّينِ كُلِّهِ  
وَكَفَىٰ بِاللَّهِ شَهِيدًا ; وَأَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ ; وَأَشْهَدُ أَنَّ  
مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ . صَلَّى اللَّهُ عَلَيْهِ وَعَلَى آلِهِ وَأَصْحَابِهِ وَسَلَّمَ تَسْلِيمًا  
مَزِيدًا أَمَّا بَعْدُ :

*“Everyone shall taste death. And only on the Day of Resurrection shall you be paid your wages in full. And whoever is removed away from the Fire and admitted to Paradise, he indeed is successful.”* [Aal Imraan, 145]

*“And surely, the Hour is coming, there is no doubt about it; and certainly, Allāh will resurrect those who are in the graves.”* [Al Hajj, 7]

I advise all my family members who survive me to fear Allaah and correct the relationship between themselves and to obey Allaah and His Messenger (peace and blessings of Allaah be upon him), as Allaah orders in the Quran:

*“So fear Allaah and keep straight the relations between yourselves and obey Allaah and His Messenger if you are indeed believers”.* [Al Anfal, 1]

I also advise them what Prophet Ibraheem and Yaqub (peace and blessings of Allaah be upon them) advised their sons:

*“O my sons, Allaah has chosen for you the religion of Islam), so do not die except as Muslims (in a state of submission to Allaah)”.* [Al Baqarah, 132]

*“Indeed, to Allaah we belong, and indeed, to Him we will return”*  
[Al Baqarah, 156]

THIS IS THE LAST WILL AND TESTAMENT OF ME, .....

.....

of.....

made this.....day of.....200

1. I REVOKE all former testamentary dispositions.
2. I appoint as my executors.....  
of.....AND  
.....of.....  
.....AND.....of.....  
.....AND .....
3. In this Will the expression "my executors" includes the trustees for the time being of this Will and the trusts arising under it.
4. MY EXECUTOR(S) shall hold the whole of my estate on trust either to retain or sell it (without being liable for loss) on the following trusts:-
  - a. To pay my debts, inheritance tax or other death duties (if any).
  - b. To pay a Sadaqa (Wasiyyah/charity) of 1/6 / 1/5 / 1/4 / 1/3 to.....
  - c. To divide the residue among my heirs according to Islamic Shariah as ordered in the Quran and Sunnah.

SIGNED by the Said Testat/or/ rix )  
in our presence and attested by us in the ) .....  
presence of him/her and of each other )

Signed_____	Signed_____
Name_____	Name_____
Address_____	Address_____
Occupation_____	Occupation_____

# Guidance on Making a Will

## Why make a Will?

It is extremely important for a Muslim to understand that when a person dies his wealth is returned to the one who granted him this wealth in the first place (i.e. Allaah Subhanahu-wa-Ta'alaah), the creator and owner of everything. What belongs to Allaah Subhanahu-wa-Ta'alaah cannot be distributed except by what He would approve; therefore having mentioned the shares of various heirs in surah An Nisa (the 4<sup>th</sup> chapter of the Quraan) Allaah Subhanahu-wa-Ta'alaah says:

“These are the limits (set by) Allâh (or ordainments as regards laws of inheritance), and whosoever obeys Allâh and His Messenger (Muhammad ﷺ) will be admitted to Gardens under which rivers flow (in Paradise), to abide therein forever, and that will be the great success.

And whosoever disobeys Allâh and His Messenger (Muhammad ﷺ), and transgresses His limits, He will cast him into the Fire, to abide therein forever; and he shall have a disgraceful torment.” (An Nisa, 13-14).

It so happens that a person obeys Allaah Subhanahu-wa-Ta'alaah for fifty years and then all his deeds are destroyed because he causes his wealth to be divided among his heirs unjustly. He is unable to return from his grave to correct his mistake. Therefore, it is important for everyone who has wealth of any kind to make a Will. Allaah Subhanahu-wa-Ta'alaah says (interpretation of the meanings):

“It is prescribed for you, when death approaches any of you, if he leaves wealth, that he makes a bequest to parents and next of kin, according to reasonable manners. (This is) a duty upon Al-Muttaqoon (the pious)” [al Baqarah, 180]

And the Prophet (peace and blessings of Allaah be upon him) said: “It is not permissible for any Muslim who has something (to will) to stay for two nights without having his last Will and testament written and kept ready with him.” (Narrated by al-Bukhaari, 2533).

**Al-Wasiyyah** (the Will) is the part of wealth on which Allaah Subhanahu-wa-Ta'alaah has given the owner of the wealth authority, so that he can allocate or divide THIS part of his wealth to whoever he wishes after his death, provided it meets a legitimate Islamic purpose.

In the presence of heirs, the maximum that is allowed for this purpose [i.e. *al-Wasiyyah* (the Will)] is **one third** of the total assets, the minimum being **one sixth** and the most preferred **one fifth**.

An heir can not be included in *al-Wasiyyah* (the Will) unless there is permission from all the other heirs.

In addition to the above, people do not like thinking about death and the effects it has on those they leave behind, but it is something that has to be faced eventually. It is natural that you should wish your property and assets to pass on after your death according to the Islamic Shariah. By making a Will you can ensure that it does.

It must be noted that there are some assets which cannot be given away in your Will [e.g. property you hold in joint names **usually** passes automatically to the other joint owner: **(this type of joint ownership is not permissible by the Shariah as it is unjust to the rights of other heirs, unless both parties of joint ownership agree that they will give the due shares to the other heirs)**] but most of your property can be dealt with by a Will.

## **What is a Will?**

It is a legal declaration of how you wish to dispose of your property on your death. In order for it to be valid, it must comply with certain requirements.

## **Who can make a Will?**

Generally speaking, anyone who reaches the age of maturity and of sound mind can make a Will. If you are not of sound mind or if there are any doubts, you **MUST** seek legal advice.

## **What makes a Will valid?**

It must be in writing, someone should be appointed to carry out the instructions (an executor) and dispose of possessions/property. It must be signed by the person making the Will (the Testator), or signed on the testator's behalf in his or her presence and by his or her direction. This should be done in the presence of two witnesses who then sign the Will in the presence of the testator.

## **Who can be a witness?**

Witnesses should be adult Muslim men of sound mind. They should not be blind and must be capable of understanding the nature and effect of what they are doing. However, a witness should not be a beneficiary in the Will or married to a beneficiary. In these circumstances, the Will remains a valid and legal document, but the gift to the beneficiary cannot be paid.

## **Who can be an Executor?**

The Executor is the person appointed by the Testator for distributing his assets after his death. The Executor must be a Mukallaf (i.e. an adult Muslim of sound mind, male or female). Beneficiaries can also be Executors if they are adults at the date of the Will. More than one Executor can be appointed simultaneously, and it is so recommended. It is also recommended that the witnesses and Executors are relatively younger than the Testator.

## **What happens if a Will is not valid?**

It is disregarded and the deceased person's property is distributed in accordance with the intestacy rules of English law and, as a result, it will be contrary to the Shariah.

## **What if I do not make a Will?**

If you do not leave a Will, your estate will pass in accordance with the intestacy rules. The intestacy rules set out who is entitled to inherit from your estate if you don't leave a valid Will. As a result your assets may not pass according to the Shariah.

If you are married, the first person entitled to your estate under the intestacy rules is your spouse, but he or she will not necessarily inherit the whole of your estate.

The amount your spouse would inherit depends on how much is in your estate and which of your blood relatives survive you. Assets held in joint names usually pass automatically to the other joint owner(s) and do not form part of your estate (if you are unsure about the type of joint ownership you share with another, you should consider seeking legal advice).

## Other things you should consider about the effects of the intestacy rules

If any of the following circumstances apply to you, the intestacy rules may not cater for your situation in the way that you would wish:

You have no living relatives and wish to leave your estate to your friends or to a charity (The Crown will take if there is no Will and no surviving relatives under the intestacy rules).

You are legally married and have children from a previous relationship and you wish to ensure that your children receive something from your estate.

You have dependant relatives (e.g. children under 18, elderly relatives or relatives with a disability who have special needs) and you want to make sure that they are looked after and provided for. If you make a Will you can appoint guardians to look after your children and set up trusts in your Will to provide for dependants.

Your estate is large and may be liable for Inheritance Tax. You may need tax planning to mitigate or avoid the tax liability.

## How can I make a Will?

You can seek legal advice from a solicitor or professional Will Writer, do it yourself using a pre-printed Will form available from stationers or do it yourself using a sheet of plain paper

## Which is best for me?

That is for you to decide, but before doing it yourself, please bear in mind the option of seeking professional advice. A solicitor or professional Will Writer should be able to advise you on the best way to draw up your Will so that it properly reflects what you want, and most importantly that it is valid. They can also help you with inheritance tax planning and setting up trusts. Doing it yourself may be fine for you, but if you make a mistake, it can be costly and distressing for your beneficiaries, especially if your Will turns out to be invalid.

## Can I change my Will?

Yes you can and it is advisable that you review your Will regularly to ensure that it still meets your requirements as your circumstances change, otherwise problems or complications can arise.

In order for any alterations to be valid, you will need to make another Will or if the changes are relatively small, you can make a **codicil**, which forms part of your Will (a codicil must be signed and witnessed in the same way as a Will). A codicil is a document that makes changes to a Will. A codicil does not usually revoke the Will but is read in conjunction with the Will.

It is possible to draw up your Will to cover possible future events (such as a beneficiary dying before you, or to make gifts to children or grandchildren born after the date of the Will) but you should get advice on such matters as they are not straightforward and will cause problems if not properly worded.

**WARNING:** Getting married after your Will is made will revoke (cancel) it unless the Will says it will not. Divorce also affects your Will, but does not revoke it. If you divorce after your Will is made, any reference to your former spouse will be treated as if he or she had died on the day that the decree absolute was made. You should seek legal advice in those circumstances.

## Where should I keep my Will?

Your Will may not be required for many years after you make it so it is essential that it is stored safely and that it can be found after your death.

The main storage providers are: Solicitors (a charge may be made), Banks (charges apply) (**WARNING:** do not store your Will in your safety deposit box. The box can't be opened until Probate is granted and Probate can't be granted without the original Will). You can deposit your Will with any Probate Registry in England (£15 one-off fee payable) or keep it yourself (but make sure your Executors know where to find it)

## Some key points to remember

Be aware of what will happen to your money and possessions if you die without leaving a Will. If the provisions on intestacy are not what you want, make a Will. Do consider taking legal advice before 'doing-it-yourself'. Mistakes can cause real difficulties for your loved ones and you will not be there to put things right. If you use an internet site to help you make your Will, ensure that it relates to the law of England and Wales and complies with the Shariah. Review your Will from time to time to ensure it still reflects your wishes and caters for your current circumstances. Do not attempt to change your Will by simply altering it or writing on it. Ensure that your Will is kept somewhere safe, and that your Executor(s) know where to find it. If you need more guidance on the above please visit: [www.drkhalid.co.uk](http://www.drkhalid.co.uk)

And finally, we humbly request you to make du'aa to Allaah Subhanahu-wa-Ta'ala for the forgiveness of the Ummah, including the writers and printers. May Allaah Subhanahu-wa-Ta'ala forgive us all (Ameen).