

LAST WILL AND TESTAMENT QUESTIONNAIRE DESIGNED BY MARC EVAN AUPIAIS

First name(s):

Surname(s):

Maiden name(s):

Previous married name(s):

Identity number: (state your date of birth in dd/mm/yyyy format if you do not have one.)

What is your marital status? (Married/Divorced/Widowed/Single.)

Were you married in community of property (default), out of community of property with accrual, or completely out of community of property? (For those who are married.)

City where you live:

Province where you live:

Home address (including postal code):

Do you plan to indefinitely reside at your home address?

Do you intend for your new will to revoke all prior wills, testamentary acts and codicils to wills made by you before the will to be drafted? (Many wills include such a clause.)

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The executor is the person in charge of making sure your estate is properly wound up after your death, they receive a small portion of the estate as a reward for doing so. They can hire a person with knowledge and expertise to do the technical parts of winding up an estate for them. It is customary to appoint a trusted relative or friend as executor, some people also appoint their lawyer. An executor can either accept or reject their appointment, meaning that it can be advisable to appoint alternative executors if the first option(s) do(es) not pan out. Joint executors can also be appointed to act together in this role.

State the full name(s) and the identity number(s) of nominated executor(s), and next to each, state the role they occupy in your life (e.g. "my sister", "my spouse", "my gardener")

State the full name(s) and the identity number(s) of alternative executor(s) in the case your first choice(s) predecease you or refuse the role, and next to each, state the role they occupy in your life (e.g. "my sister", "my spouse", "my gardener")

State the full name(s) and identity number(s) of tertiary executor(s) in the case your first and alternative choice(s) predecease you or refuse the role, and next to each, state the role they occupy in your life (e.g. "my sister", "my spouse", "my gardener")

Do you want your executor to have all power and authority allowed in law?

Do you want your executor to have the power of assumption? (Many wills give such power.)

Do you want your executor to be exempt from furnishing security to the master of the high court or any other relevant official? (Many wills exempt executors from furnishing security.)

Do you want your executor to be exempt from personal liability for any loss, and/or damage sustained by any person due to their discharging of their duties, even in the case of negligence, but not in the case of dishonesty? (Many wills include such a clause.)

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Legacies are specific items you leave to specific people [e.g. "I leave my (year) (make) (model) (car/motorcycle) with registration number (registration number) to my son (name) whose identity number is (identity number)]. Be as specific as you possibly can be. In the event of a house, or property, put both the address and the ERF, and if possible, the physical extent of the property (e.g. "22 square metres in extent"). Legatees (people who receive specific items) receive what they are specifically bequeathed before the heirs (who are those who receive portions of the estate in general). As individuals may refuse a legacy, or predecease you, it can be important to set out who would receive their legacy if this event occurred.

What specific items (legacies) do you want to leave to specific people (legatees)? State what item you want to leave to whom, be very specific in your description. State the name, identity number and the role they occupy in your life (e.g. "my sister", "my spouse", "my gardener"), of each legatee. E.g. "I bequeath my 1979 gold leafed bible to my daughter (daughter name), with identity number (identity number), in the event that she predeceases me or refuses to accept the 1979 gold leafed bible, I bequeath it to my son (son name), with identity number (identity number)."

Heirs receive the remainder of your estate after all debts, taxes and the legatees have been paid/benefited (what remains for heirs is what is called the residue of the estate). You may either want to leave the residue to one specific person or cause, or to several persons in various portions. It is often the practice that spouses leave their estate to one another, and in the event of the spouse predeceasing the testator, or refusing the benefit, leave the estate to their children, or to the remaining heirs with the portions thus adjusted and so forth.

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Who would you like to inherit the residue of your estate (i.e. State your preferred heirs)? For each heir, state their full name, identity number, the role they occupy in your life (e.g. "my sister", "my spouse", "my gardener"), and state the percentage you would like them to inherit (e.g. "I would like my son (name), with identity number (identity number) to inherit one third of my estate"). Make sure no portion of your estate is left without a beneficiary.

Alternate heirs. If the heirs refuse the benefit, or predecease you, or die simultaneously with you, who would you like to inherit their portions? Be specific. State their full name, identity number, and the role they occupy in your life (e.g. "my sister", "my spouse", or "my gardener"). (e.g. "if (spouse) predeceases me, then I leave my estate in equal shares to my two children, namely, my daughter (full name), with identity number (identity number), and my son (full name), with identity number (identity number).")

In the event that an heir is still a minor, or below the age of _____ on your passing, do you desire to set up a trust to take care of their inheritance until they reach either the age of majority or the age you specify? What would you like the trust to be called?

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State the full names, identity number(s), and the role they occupy in your life (e.g. "my sister", "my spouse", "my gardener"), of the people you would like to be trustees of such a trust.

State the full names, identity number(s) and the role they occupy in your life (e.g. "my sister", "my spouse", "my gardener"), of the people you would like to be trustees in the event that the trustees are unable to serve as such, refuse to serve as such, or predecease you.

Do you desire to give your trustees the widest possible powers in administering the trust portion of your estate?

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Children or others under your guardianship may need to be assigned a new guardian in your place if you are the sole guardian or if the other guardian dies around the same time as you or predeceases you. In these events, who would you nominate as guardian of your children? State the full names, identity numbers and the role they occupy in your life (e.g. "my sister", "my spouse", "my gardener"), of both the child(ren) and the potential guardian(s).

Who would you want to be guardian of your charges if the above guardian(s) is/are unable to, predecease you, or refuse to take up the role of guardian? State the full names, identity number(s) and the role they occupy in your life (e.g. "my sister", "my spouse", or "my gardener"), of both the child(ren) and alternative guardian(s).

Do you want to exclude any benefits from the spouse(s) of the beneficiaries of your estate, and prevent these benefits from being subject to the marital power of any beneficiary's husband? (Wills often include such an exclusion clause.)

What are your wishes in the following respects: do you want to be buried or cremated? What would you like done with your remains or ashes? (Attach documents if needed.)

Collation is the principle that any benefit given by the testator to a beneficiary of their will, during their lifetime, must be returned or refunded so as to deduct it from their inheritance, and place beneficiaries on equal footing. Do you wish to exclude collation from applying? (It is common for wills to expressly exclude collation.)

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Questions to ask before an appointment with a lawyer

- Have I checked that all names are identical to those appearing in official papers?
- Have I checked all identity numbers are accurate?
- Do I understand major relevant terms?
- Have I consulted all potential executors on their responsibilities?
- Have I consulted all potential guardians (if applicable)?
- Have I consulted all potential trustees (if applicable)?
- Have I made copies of all prior wills to bring with me?
- Have I made copies of relevant id documents to bring with me?
- Have I completed the above questionnaire as to my wishes?
- Have I set aside a pen and paper to write notes?
- Have I set aside time for a proper consultation?

To do before signing a will

- Have I checked that all names are correct in the draft?
- Have I checked that all identity numbers are correct?
- Have I checked that the role people occupy in my life, as in the draft, is correct?
- Have I checked that the document revokes previous wills explicitly?
- Have I asked about all differences/obscurities in the draft?
- Have I checked up any words I don't understand?
- Have I read every word of the will?
- Have I asked two witnesses I know and trust to witness and sign?
- Am I entirely happy with the will as it is to be signed?
- Have I made certain multiple original copies were printed to each be signed?

On signature of the will

- Have I and the witnesses signed every page?
- Are all signatures clear and in black?
- Do I and relevant parties all have original copies?
- Is there a safe preferably fireproof place where I can store my original?
- Have I informed relevant parties that I have revoked my old will (if applicable)
- Have I informed someone I trust where my will may be found on my death?

Other non-legal considerations

Even with a perfectly drafted will in a simple estate, your affairs can take a very long time to wind up finally. In the time between your death and your beneficiaries' inheritance, they may need resources to live on. Whether life insurance or other systems are investigated, it is important to make sure that your loved ones are taken care of during this period.

A will can well speed up the process as compared to intestate estates without wills, but a will needs to be clear and well drafted. Litigation over the interpretation of wills, can make a massive time difference in winding up an estate. It can be important to let those who matter know what your intentions are now, and to make sure they know about your will. The easier your estate is to wind up, the faster those you love will receive their inheritance.