



THE WILLS REGISTER NOTES TO THE QUESTIONNAIRE

Helpline telephone number **01303 248644**

The service offered by The Wills Register is to provide a confidential questionnaire from which we will process your clients Will.

This questionnaire is designed to cover the majority of cases. However, should your clients wishes appear to be out of the scope of the questionnaire they may be provided at an extra cost. Please telephone our helpline for a fee quotation.

Once the Will has been drafted it will be returned to you with instructions for signing and witnessing to ensure that it is legally correct.

As part of the ongoing service, we recommend the use of the Will Safe facility. The unique Will Care Life Long Service, means the will can be updated from time to time free of charge.

MIRROR WILLS

The Wills Register will prepare two Wills, for spouses or partners, in identical but reciprocal terms. For example, enabling clients to leave everything to each other with a substantial gift in favour of their children or others

Of course, the Mirror Wills concept only works if both spouses or partners have identical testamentary wishes and The Wills Register cannot offer the Mirror Wills scheme to spouses or partners who wish to make different gifts under their respective Wills. If either spouse has children from a previous relationship it may be necessary to make single Wills – please call our helpline if in doubt.

Please note that The Wills Register service does not extend to supervising the signing and witnessing of the will. Although any independent adults, who are not benefiting under the Will or married to someone who benefits, may act as witnesses, it is recommended that a will made by an elderly testator should be witnessed by a doctor satisfied that the testator has the required capacity and understanding.

IMPORTANT NOTE

Under the law of England and Wales an individual is, generally speaking, allowed to leave his or her estate to whomever he or she wishes.

However, the Inheritance (Provision for Family and Dependents) Act 1975 gives the Court power to vary your Will if it considers that you have failed to make reasonable financial provision out of your estate for someone who was financially dependent on you.

The following may have the right to claim against your estate.

- (i) Your spouse/civil partner/partner - details to be supplied in Sections 1 & 2
- (ii) Your children - details to be supplied in Section 3
- (iii) A former spouse or civil partner who has not remarried/entered into a new civil partnership - details to be supplied in Section 4
- (iv) Step-children - details to be supplied in Section 4 or Section 3 if this questionnaire is for Mirror Wills
- (v) Other dependents financially maintained by you - details to be supplied in Section 4

When deciding how your estate should be distributed you should consider the possible needs of the persons you name in Sections 2, 3 and 4.

There may be very good reason why you might not wish to provide for individuals falling within these categories (ie, you have already made sufficient financial provisions during your lifetime) but if you choose to exclude from your Will someone who might reasonably expect to benefit, you may wish to write a letter addressed to your Executors, explaining why you have excluded this person. This letter can then be used as evidence in defence against any claim on your estate.

FOREIGN PROPERTY

Please advise us if you own any foreign property and if you have a foreign will to dispose of that property that you do not wish to revoke.

NOTES

These notes are numbered to correspond with the questions appearing on the questionnaire. Please read the relevant notes before answering the questions. All notes are with reference to the law as stated at 01/03/2008.

SECTION 1

YOUR PERSONAL DETAILS*

Supply the fullest information

- (a) (b) & (c) Please also provide details of any other name by which you may be known professionally or socially, or any other name in which you hold any property.
- (e) This should be the address at which you presently reside. It does not matter if you change address after you have made the Will.

SECTION 2 DETAILS OF YOUR SPOUSE/CIVIL PARTNER/PARTNER*

- (a) (b) & (c) Please also provide details of any other name by which your spouse/partner may be known.
- (e) This should be the address at which your spouse/partner presently resides.
- (g) Your Will becomes invalid upon your marriage or entering into a civil partnership UNLESS the Will is expressly made in contemplation of your marriage or civil partnership with the person named in the Will.

***If there are any factors such as blindness or physical disabilities which may affect the execution of the Will please advise since a special clause may need to be inserted.**

SECTION 3**DETAILS OF YOUR CHILDREN**

Please provide the names, dates of birth and addresses of all your natural children and any adopted children.

You should note that for the purposes of your Will the general term “children” does not include step-children. If you have step-children and want them to benefit equally with your natural children this is possible and is provided for in Question 10(A)(c).

NB If this Questionnaire is for Mirror Wills – please be sure to include details of all the natural, and adopted children of each partner, (ie if one or both partners has children from a former marriage or relationship details should be included here). – Please indicate for each child which spouse/partner is the parent. Write “BOTH” if the child is of both partners of the Mirror Will.

VERY IMPORTANT

DETAILS OF ALL YOUR CHILDREN SHOULD BE INCLUDED EVEN IF YOU NOT WHIS THEM TO BENEFIT UNDER THE TERMS OF YOUR WILL.

(c)**ILLEGITIMATE AND ADOPTED CHILDREN**

The law provides that any reference to “child” or “children” automatically includes illegitimate and adopted children.

If you wish to exclude illegitimate and adopted children from benefiting equally with natural lawful children, answer “yes” to question 3(c). This will also exclude illegitimate and adopted grandchildren.

SECTION 4**OTHER DEPENDENTS**

In this section please set out fully the names and addresses of persons (other than your spouse/partner and children) who are financially dependent on you.

This information is useful when you consider how to dispose of your estate (particularly in the light of the inheritance (Provision for Family and Dependents) Act 1975). This is explained fully at the beginning of these notes.

SECTION 5

YOUR EXECUTORS

Your executors are the people you choose to look after your affairs when you die. They deal with the obtaining of the Grant of Probate, the calling in of your assets and their sale (if necessary), the payment of your debts and the distribution of your estate according to the terms of your Will.

The selection of your Executors should be considered very carefully. You should have the fullest confidence in the competence of the individuals you choose who should preferably have some knowledge of your personal circumstances.

You may wish to appoint a professional organisation such as the Executor Company to be your executor.

It is recommended that you appoint **no fewer than two Executors** and that you also appoint alternative Executors to cover the possibility of one or both of your first choice Executors dying before you. (Thus, if one of your first choice Executors dies before you, the first named alternative Executor will replace him or her).

You should ask your proposed executors first to ensure that they would be prepared to act.

IT IS PERFECTLY LEGAL FOR AN EXECUTOR TO BE A BENEFICIARY UNDER YOUR WILL. Indeed, it is often a good idea for a major beneficiary (e.g. your spouse/partner) to be one of your Executors as this provides an incentive for your estate to be administered as speedily as possible.

THE WILL SAFE Important Note

Your Executors should be informed as to where your Will is stored.

The Will Safe facility simplifies this and all you need to tell them is the unique reference number.

If you keep your will at home you run the risk of fire, flood or theft. More importantly, a person who would be better off if there was no Will, may be the first to find it and might destroy it.

SECTION 6

FUNERAL WISHES

Your funeral wishes are not legally binding on your family and Executors and it is not strictly necessary to set out your wishes in your Will. However, many people prefer to include such details in their Wills to be certain that their wishes are known.

In this section please indicate which of the three options accords with your wishes.

You are advised to make sure that your wishes are communicated in advance to your family and Executors so that action may be taken immediately on your death. In particular you should inform your family and Executors of any specific additional funeral arrangements you want.

In the event of your wishing to donate your body for medical research you should complete and carry with you a Donor Card.

SECTION 7

GUARDIANS OF MINOR CHILDREN

Guardians may be appointed by Will for children under the age of 18.

It is suggested that you appoint up to two guardians. They will act jointly.

It is important that you discuss the matter with the persons you intend to appoint as guardians to ensure that they are prepared to take on the responsibility.

Appointment of Guardians

1. **Married Couples.** For married couples the appointment of guardians will only take effect after the death of the second or surviving parent.
2. **Divorced/Separated Couples.** The appointment of guardians will normally take effect after the death of the second parent. However, where one parent has a Residence Order in his/her favour at the date of death the appointment of guardians by this parent will be effective on his/her death and the guardians so appointed will act jointly with the surviving parent. You should note that a child's guardian is not automatically entitled to have that child living with him/her. Disputes between guardians and the surviving parent are settled by the court.
3. **Unmarried Fathers.** Unmarried fathers who have not acquired parental responsibility cannot make a valid appointment of guardians and they will not automatically become the guardian of their children on the mother's death.

Unmarried fathers can acquire parental responsibility

- i By being registered as the child's father on the birth certificate (for children born on or after 01/12/2003)
- ii By entering into a written agreement to share parental responsibility with the mother.
- iii By applying to the Court for parental responsibility.
- iv By being appointed as a guardian of the child by the mother.
- v By marriage to the mother.

Having acquired parental responsibility, the unmarried father can make a valid appointment of guardians.

4. **Unmarried Mothers.** Where there is no other parent with parental responsibility, the appointment of guardians will take effect on the mother's death. If the surviving father has acquired parental responsibility however, the appointment of guardians will take effect only after his death (unless the mother has a Residence Order in her favour).

SECTION 8**SPECIFIC LEGACIES**

A Specific Legacy is a gift of a particular asset.

In this section you should set out the full names and addresses of the persons to whom you want to give specific items. Please provide a concise and accurate description of the items you are giving.

You may wish the specific legacies to take effect only if your spouse/partner does not survive you, ie only after both partners have died. If so, please answer 'yes' to question (b)

EXAMPLE

Full Description of Item being given **Name and Address of Beneficiary**

My: <i>COLLECTION OF BRITISH POSTAGE STAMPS</i>	<i>FRED SMITH OF CROFT COTTAGE HIGHER LANE, MUMBLES GLAMORGAN, WALES</i>
My: <i>BOXED SILVER CUTLERY SET</i>	<i>ROSE EVANS OF 27 THE AVENUE HALIFAX, YORKSHIRE</i>

SECTION 9**CASH LEGACIES**

In this section you should set out, in words, the amount of money you wish to leave to any particular individual or charity whose name and address should also be supplied. If you leave money to a charity you should also supply the Registration number of that charity.

You may wish the cash legacies to take effect only if your spouse/partner does not survive you, ie only after both partners have died. If so, please answer 'yes' to question (b)

EXAMPLE

Amount in Words	Name and Address of Beneficiary
<i>FIVE HUNDRED POUNDS</i>	<i>ROSE EVANS OF 27 THE AVENUE HALIFAX, YORKSHIRE</i>
<i>FIVE HUNDRED POUNDS</i>	<i>CHILDLINE, REGISTERED CHARITY NO. 295037 2ND FLOOR, ROYAL MAIL STUDD STREET LONDON N1 0QW</i>
<i>ONE THOUSAND POUNDS</i>	<i>TO EACH OF MY GRANDCHILDREN LIVING AT MY DEATH</i>

The Will will contain an administration clause permitting your Executors to pay a legacy to the parents/guardians of a beneficiary under the age of 18 for them to hold on behalf of that minor beneficiary. This will enable your Executors to pay out legacies as quickly as possible without having to wait until all beneficiaries have reached the age of 18. However, if your Executors feel it is better to wait until a beneficiary reaches 18 then they are able to do so.

SECTION 10(A)**GIFT OF RESIDUARY ESTATE**

Your Residuary Estate is what is left of your estate once your Executors have paid all your debts, settled any inheritance tax, distributed any legacies and met the costs of administering your estate.

- (a) It is likely that you will want your surviving spouse or partner to receive all your Residuary Estate. If this is the case, simply answer “yes” to this question.
- (b) You must consider the possibility that your spouse or partner may die before you. If in this event you want your children to receive your Residuary Estate (divided equally between them if you have more than one child), answer ‘yes’ to this question.

If you leave your Residuary Estate to all your children IN EQUAL SHARES and a child predeceases you, that child’s share will pass to his/her children equally.

- (c) Do you want step-children to be included in the definition of children? i.e. all children of both partners to share equally.

SECTION 10(B)**GIFT OF RESIDUARY ESTATE *cont.....***

Only complete this Section if you answered ‘no’ or ‘not applicable’ to question (a) of Section 10(A).

- (a) If you have children you may wish them to receive all your Residuary Estate. If so, simply answer ‘yes’ to this question.

If you leave your Residuary Estate to all your children IN EQUAL SHARES and a child predeceases you, that child’s share will pass to his/her children equally.

- (b) Do you want step-children to be included in the definition of children?

SECTION 10(C)**GIFT OF RESIDUARY ESTATE *cont.....***

Only complete this Section if you answered 'no' or 'not applicable' to question (b) of Section 10(A) or question (a) of Section 10(B).

- (a) Is there a category of relations between whom you want your Residuary Estate divided? If so, please tick the relevant category.

SECTION 10(D)

If you want your Residuary Estate to be distributed unequally or between persons (or charities) not previously mentioned in Section 10 then please name the beneficiaries, supply their addresses and state what share of your Residuary Estate each is to receive.

EXAMPLE

Name	Address	Share**
<i>JOHN ONION</i>	<i>10 SHERIDAN HOUSE ACACIA STREET LONDON SE11</i>	<i>1/4</i>
<i>SUSAN GREEN</i>	<i>43 NORMANS ROAD STRATFORD UPON AVON WARWICKSHIRE</i>	<i>1/4</i>
<i>ACTION FOR BLIND PEOPLE REG. CHARITY NO.205913</i>	<i>14-16 VERNEY ROAD LONDON SE16 3DZ</i>	<i>1/2</i>

** Share must be expressed as a fraction and totalled to equal 1.

SECTION 11**THE ULTIMATE GIFT OVER CLAUSE**

You may wish to make provision to deal with the possibility of *none* of the beneficiaries whom you have previously specified surviving you. In this section you should set out the name of the charity or individual who should benefit in this event.

If you do not wish to make any such provision please write 'None' in the space provided.

INHERITANCE TAX

One of the first tasks your Executors must carry out in the event of your death is to value your estate and prepare an Inland Revenue Account which will show whether any IHT is payable.

Inheritance tax rules are liable to change and Inheritance tax is highly complicated and applies not only to property passing on death but also to lifetime gifts and other transactions.

The Wills Register does not offer tax, financial or legal advice and if you think you are in need of advice of a highly technical nature we recommend that you visit a solicitor or financial adviser.

DO NOT FORGET TO SIGN AND DATE THE QUESTIONNAIRE

WHO TO APPOINT AS YOUR EXECUTOR

Your choice of Executor is a very important decision. Some of the duties of an Executor are set out in this leaflet. In most cases it makes good sense to have professional assistance with the administration of an estate.

The Executor Company Ltd. provides a personal and specialist service as Executor to your Will at whatever level of involvement and assistance you require. We are there to ensure that the terms of your Will are carried out and using our experience overcome the many problems which may occur while administering your estate.

You may appoint The Executor Company as your Executor in any of the following ways:

SOLE EXECUTOR

If you appoint The Executor Company as Sole Executor you are assured that your estate will be administered impartially with the utmost professionalism and integrity. We would normally be appointed as Sole Executor in cases where the Testator is a single person or in the case of an elderly couple where the survivor would not want the stress of the work associated with Executorship. It would be particularly relevant if their Children or other family members were unable to be involved with winding up the estate due to work or family commitments or perhaps living abroad. If you do not have a member of your family or somebody you know and trust and is willing and capable to act as an Executor you should appoint The Executor Company as your Sole Executor.



JOINT EXECUTOR with SURVIVING SPOUSE or PARTNER

This is the most normal situation whereby you would appoint The Executor Company as Executor. When one partner dies we are on hand to act jointly with the survivor. It may be that the survivor is incapacitated or too distressed to want to do any of the Executor work. It may be that the survivor has his or her work cut out just looking after the children and dealing with the emotional problems and will not want to get involved in legal administration on top of everything else. In cases such as these The Executor Company is on hand to do all the work.

There may be instances where the surviving spouse wants to get fully involved in the Executorship. We genuinely understand that being active in such a way can help to overcome grief. In this instance our responsibility extends to being on hand to advise on procedures when required, help if necessary and add weight and experience if there are difficulties. Our main ambition in this type of situation is to provide support, not to intrude, but to ensure that the surviving spouse or partner is totally satisfied with our service and have peace of mind knowing that on their death The Executor Company will administer their own estate with due diligence and integrity.

JOINT EXECUTOR with FRIENDS or FAMILY

In many instances it makes good sense to appoint a close member of your family, or your children or a major beneficiary as one of your Executors, especially if they know and understand your affairs. In this situation The Executor Company will be able to carry out all the legal work while being able to call upon people who have personal knowledge of your estate. This greatly speeds up the administration process and helps to reduce costs.

At all times with The Executor Company as your Executor you have peace of mind knowing that all the problems of inheritance will be dealt with by highly trained professionals who have experience in the full range of skills, legal, financial and emotional, necessary to carry out the terms of your Will.

FEES FOR ACTING AS EXECUTOR

The current fees are set out in the Terms and Conditions and will vary according to the amount of work involved. You will see that our basic responsibility fee is only 1% which represents exceptional value for money. No fees are charged until we begin our duties after a person's death.

WHAT TO DO NEXT

Simply write 'The Executor Company Ltd.' in your choice of Executor section 5 of your Wills Register questionnaire and return the questionnaire for processing.

THE EXECUTOR COMPANY

P.O. Box 331
Folkestone
Kent CT20 2GH
Telephone: 0800 61 48 68

SOME OF THE DUTIES OF AN EXECUTOR ...

Establish a full schedule of assets and establish legal title to them.

Complete all legal and fiscal formalities to obtain a Grant of Probate.

Complete Inland Revenue account, settle Income Tax, Capital Gains Tax and Inheritance Tax.

Agree value of assets with the Capital Taxes Office, District Valuer and the Inland Revenue Shares Valuation Division.

Administer assets until they can be satisfactorily sold and if necessary running a business for a period of time.

Complete the legal formalities to transfer or dispose of a house.

Confirm that all claims on the estate and all debts are genuine before they are paid.

Distribute the estate in accordance with the terms of the Will.

Bring to the attention of beneficiaries any ways to minimise Inheritance Tax and provide them with documentation which will affect their own tax affairs.

Prepare accounts showing assets received and any payments made.