

POINTS TO BE CONSIDERED IN MAKING A WILL

List of assets

Prepare a list of assets as per specimen attached.

Executors

Normally two executors should be appointed. The executors are usually family members e.g. husband, wife, children, close relatives etc. It is not advisable to appoint professionals such as banks, accountants, solicitors as executors as their professional fees and administrative charges may be disproportionate to the value of the estate and may not appreciate the family relations and circumstances. Normally the executors may seek advice and services of these professionals at an agreed fee.

Professional advice

It is recommended that person making a will should consult a solicitor at all times as their fees for preparing wills in such cases is nominal.

Review

Wills must be reviewed every three or five years or as soon as circumstances change in any material respect.

Attestation

It is very important that the testator (person making the will) and the two witnesses must be present at the same time when signing the will. Each page must also be initialled or signed. A beneficiary cannot be a witness.

ESTATES EXCEEDING EXEMPT LIMIT (Currently £255,000)

Life Assurance

It is recommended that life assurance policies be put in Trust with named beneficiaries. This has the effect of the value escaping inheritance tax and the beneficiaries receiving the proceeds immediately upon death of the assured. You should write to the assurance companies who will let you have their Trust forms. You may appoint anybody you like as Trustees and beneficiaries in the Trust forms.

Residential property and other joint assets such as bank and building society accounts

Where properties and other assets are held as "joint tenants" they are automatically vested in the survivor on death and therefore a joint tenant cannot make a gift of his/her share of the property or asset. It also means that the survivor may exceed the £255,000 exempt limit on second death and liable to pay 40% inheritance tax on the excess. Usually the residential property is held as joint tenancy and forms the bulk of any estate. **Therefore, where total assets are likely to exceed the exempt limit**, it is recommended that to take advantage of the exemption limit, the joint tenancy be converted into a tenancy-in-common by one of the co-owners giving a notice to the other saying that the joint tenancy has been 'severed' and that they are now tenants-in-common. I enclose specimen of a notice which should be kept with the deeds of the property. These assets should be left as a 'discretionary gift' in your will and will be held by your executors for the benefit of your beneficiaries and passed on to the ultimate beneficiaries on the second death. I enclose a **letter of wishes** to your executors which is recommended as a guidance to them in disposal of your discretionary assets. I enclose draft of will for estates exceeding Exempt limit.

LIST OF ASSETS FOR INHERITANCE TAX PURPOSES

	SELF	SPOUSE	JOINT
	£	£	£
Residential property
Other property
Life policies
Tessa/Isa/Peps
Quoted Investments
Bank accounts
Building Society acs
Other accounts
Busines
Cars
Jewellery
Chattels
Other assets

TOTAL	-----	-----	-----
	-----	-----	-----

MUTUAL WILLS
HUSBAND TO WIFE/ WIFE TO HUSBAND
Normally suitable for Estates of less than £255,000

This Will made by me _____ of _____
the _____ day of _____ two thousand
and _____ cancels all former Wills and Codicils and is my last Will

1 Disposal of my body

I WISH to be cremated

2 Executors

I APPOINT my wife/husband _____ of _____
And my son/daughter _____ of _____
to act as my Executors

3 Specific gifts and legacies

I GIVE:

- (a) £.....to
- (b) £.....to.....
- (c) £.....to SPA International Trust fund

4 Meeting liabilities

I GIVE all y real and personal estate which is not specifically disposed of in this Will or any codicil to it to my Executors upon trust to sell it (with full power to postpone selling it if they think fit) and to pay my funeral testamentary and executorship expenses my debts and any tax in respect of my estate (except where any gift in this Will or codicil to it is expressly made subject to inheritance tax) and deal with the balance ("the Residue") as set out below

Signature..... Witness.....Witness.....

5 Distribution of the Residue

I GIVE the Residue of my estate to my wife/husband absolutely but if he/she fails to survive me by 28 days or if this gift or any part of the gift fails for any reason, then I GIVE the residue of my estate or any part of it affected those of my children who survive me and attain the age ofyears if more than one in *equal shares or in the following proportions:*

To my son%

To my daughter.....%

PROVIDED THAT if any of my children dies before me or after me but under that age, I GIVE the share that child would have taken to his or her own children who attain the age of 18. equally. If no person shall inherit the residue of my estate or part of it under the preceding gifts, I GIVE to

.....

6 Executors' and Beneficiaries' Powers

The powers set out in the Standard Provisions (with the exception of paragraph 5) of the Society Section of Trust and Estate Practitioners (1st Edition) shall apply with the addition of the words "or other" and after the word "income" in paragraph 3(7)(a) but shall not be exercisable so as to conflict with the beneficial provisions of this Will

7 Definitions

The phrase "my executors" shall mean the executor or executors of this Will and the trustee or trustees in it

SIGNED by the said)
)
as *his/her* last will in our presence)
and attested by us in the presence)
of *him/her* and each other)

Witnesses:

Signature.....Signature.....
Names.....Names.....
Occupations.....Occupation.....
Address.....Address.....
.....
.....

**WIDOW/WIDOWER/SEPERATED AND SINGLE PARENT
WITH MINOR CHILDREN**

This Will made by me _____ of _____
the _____ day of _____ two thousand
and _____ cancels all former Wills and Codicils and is my last Will

1 Disposal of my body

I WISH to be cremated

2 Executors

I APPOINT _____ of _____
and _____ of _____
to act as my Executors

3 Guardians

I APPOINT _____ of _____
and _____ of _____
To be the guardians of any child of mine who is under the age of 18

4 Specific gifts

4.1 I GIVE my furniture of household or garden use and ornaments including clothing
jewellery watches and items of personal adornment to _____ and _____
I EXPRESS the wish (without imposing any legal obligation) that they be
distributed in accordance with any wishes I may have expressed

4.2 I GIVE:

- (d) £.....to
- (e) £.....to.....

5 Meeting liabilities

I GIVE all y real and personal estate which is not specifically disposed of in this Will or any
codicil to it to my Executors upon trust to sell it (with full power to postpone selling it if they
think fit) and to pay my funeral testamentary and executorship expenses my debts and any
tax in respect of my estate (except where any gift in this Will or codicil to it is expressly made
subject to inheritance tax) and deal with the balance ("the Residue") as set out below

Signature..... Witness.....Witness.....

6 Distribution of the Residue

I GIVE the Residue to such of my children as survive me by 21 days and if more than one in equal shares provided that if any of my children should fail to survive me leaving a child or children of his or her own who survive me and reach the age of years then those children shall have (and if more than one in equal shares) the share of the Residue which my child would have had if he or she had survived me. If no person shall inherit the residue of my estate or part of it under the preceding gift, I GIVE to.....

.....
.....

7 Executors' and Beneficiaries' Powers

The powers set out in the Standard Provisions (with the exception of paragraph 5) of the Society Section of Trust and Estate Practitioners (1st Edition) shall apply with the addition of the words "or other" and after the word "income" in paragraph 3(7)(a) but shall not be exercisable so as to conflict with the beneficial provisions of this Will

8 Definitions

The phrase "my executors" shall mean the executor or executors of this Will and the trustee or trustees in it

9 Trust of Land and Appointment of Trustees Act 1996

8.2 7 (3) of the Trusts of Land and Appointment of Trustees Act 1996 ("the Act") shall not apply to this Will or any codicil to it and accordingly the Executors may partition land without the consent of any beneficiary

8.3 Section 11(1) of the Act shall not apply to this Will or any codicil to it and accordingly the Executors may exercise all their powers relating to land without consulting any beneficiary

8.4 Notwithstanding Section 12 of the Act no beneficiary with an interest in possession shall be entitled to occupy any dwellinghouse which is any time subject to this Will or any codicil to it except with and to the extent of the express written authority of the Executors

8.5 Section 19 (2) of the Act shall not apply to this Will and accordingly the beneficiaries may not direct any Executor to retire

SIGNED by the said)

)

as her last will in our presence)

and attested by us in the presence)

of her and each other)

Witnesses:

Signature.....Signature.....

Names.....Names.....

Occupations.....Occupation.....

LETTER OF WISHES

To my Executors

It is my wish that you exercise the discretion which you have in my will at the direction of my husband/wife during his/her lifetime and for his/her benefit if he/she is unable to give you instructions. After his/her death I would like any remaining trust funds to be distributed in accordance with the terms of my will.

It is my wish that you exercise the discretions which you have in my will to give% of my estate to charity. After my husband's/wife's death would you please use some of the money for the education of my grandchildren.

This letter is not intended to impose a binding trust upon you.

SIGNED.....

PRINT NAME.....

DATED.....

TOTAL ASSETS IN EXCESS OF EXEMPT LIMIT (CURRENTLY £255,000)

This Will made by me
of.....the day
of.....two thousand.....cancels all former wills and codicils and is my
last will

1 Disposal of my body

I WISH to be cremated

2 Executors

I APPOINT ("my wife/husband") and (provided my
wife/husband survives me by 21 days) my
son/daughter.....Of.....
.....to be my Executors

3 Specific Gifts

I GIVE
£..... to
£.....to.....(SPA International Trust Fund)

4 Discretionary gift

4.1 If my wife/husband shall survive me for 21 days I GIVE to my Executors the
largest sum (not including any property which benefits from business or agricultural relief)
which I can give on the trusts of this clause without any inheritance tax becoming due in
respect of the transfer value of my estate which I am deemed to make immediately before my
death ("the Discretionary Fund") and my Executors shall hold the Discretionary Fund and the
investments representing it and the income from it upon the following trusts

4.2 In this clause where the context so permits the following clause shall have
the following meanings:

4.2.1 "the Distribution Day" shall mean the day upon which shall expire the period
of 79 years from the date of my death which period shall be the perpetuity period applicable to
the trusts in this will

4.2.2. "the Beneficiaries" shall mean my wife/Husband and children and remoter
issue whether living at the date of my death or born before the Distribution Day (and the
spouses and widows and widowers of such children and remoter issue) and general
charitable purposes but no person may become a beneficiary by reason of any event
occurring after the Distribution Day

SIGNED.....Witness.....Witness.....

4.3 Until the Distribution Day my executors shall hold the Discretionary Fund upon trust to pay or apply the income and capital of the Discretionary Fund to or for the benefit of all or such one or more exclusively of the others of the beneficiaries

in such shares if more than one

-and in such manner

as my executors being at least two in number shall from time to time in their absolute discretion think fit

PROVIDED THAT my Executors shall also have the power

-during the period of 21 years from my death

-if they in their absolute discretion think fit

from time to time to accumulate the whole or any part of the income of the Discretionary Fund by investing it and the resulting income from it in any of the investments authorised by this will and by holding such investments as an accretion to the capital of the Discretionary Fund

4.4 On the Distribution Day my Executors shall hold the capital and income of the Discretionary Fund (or so much of it as shall not have been paid or applied under paragraph 4.3) upon the trust for such of the beneficiaries as shall be then living and if more than one in equal shares

4.5 Any of my Executors may join in exercising the powers and discretions conferred by this clause notwithstanding that such executor may be personally interested as beneficiary

4.6 I DECLARE for the avoidance of doubt that in administering the provisions of this clause my Executors may exercise all or any of the powers and discretions conferred on them under the general law or under any other provisions of this will so far as the same are not inconsistent with the provisions of this clause

4.7 I DECLARE that the pecuniary or specific legacies in this will or any codicil to it payable in the event of my Wife's / husband's surviving me shall be satisfied in full priority to the gift contained in this clause

5 Meeting liabilities

I GIVE all my real and personal estate which is not specifically disposed of in this will or any codicil to it to my Executors upon trust to sell it (with full power to postpone selling it if they think fit) and to pay my funeral testamentary and executorship expenses my debts and any tax due in respect of my estate (except where any gift in this will or any codicil to it is expressly made subject to inheritance tax) and deal with the balance ("the Residue") as set out below

SIGNED.....Witness.....Witness.....

6 Distribution of the Residue

I GIVE the Residue to my Executors to hold upon trust divided into(.....) equal shares and to deal with them as follows

- 6.1 by holding 1 (one) share upon trust for such general charitable purposes as my Executors in their absolute discretion think fit and
- 6.2 as to the remaining... (.....) shares
 - 6.2.1 for my wife/husband during her/his life time; and
 - 6.2.2 after her/his interest or any part in it terminates for whatever reason for such beneficiaries named in clause 4.2.2 above as survive me and if more than one in such shares and upon such trusts or absolutely as my Executors being at least two in number shall in their absolute discretion think fit and so by deed appoint
 - 6.2.3 my Executors shall have the power to terminate my wife's/husband's interest in the Residue or in any part of it to the extent of my Executor's interest in it at any time in their absolute discretion and without having regard to her/his interest as life tenant
 - 6.2.4 I DECLARE that in administering the provisions of this clause my Executors may exercise all or any of the powers and discretions conferred on them under the general law or under any other provisions of this will insofar as they are not inconsistent with the provisions of this clause

7 Executors' Powers

My Executors shall have the following powers:

- 7.1 to insure any property in my estate to any amount against any risks and to pay all premiums at their discretion out of the income or capital of the Residue
- 7.2 to apply at their discretion any money received under any insurance either in making good the loss or damage for which it was received or to treat it as if it were the proceeds of sale of the insured property
- 7.3 to accept at their absolute discretion the receipt of the parent or guardian of any beneficiary who is under the age of 18 and the receipt of the secretary treasurer or other proper officer of any charity or other association in respect of any legacy in this will or any codicil to it
- 7.4 not to apply the statutory rules relating to income and to treat all receipts in the nature of income as earned at the date upon which they first became payable
- 7.5 to invest in non-income producing assets including the purchase repair and improvement of property (leasehold or freehold) for any beneficiary

SIGNED.....Witness.....Witness.....

- 7.6 to invest and change investments as freely as if they were beneficially entitled to them
- 7.7 to use any of the assets in my estate to satisfy any of the legacies in this will or codicil to it without obtaining consent of any of the beneficiaries
- 7.8 to pay and use for the benefit of any beneficiary the whole or any part of the income and capital to which that beneficiary is entitled or may in future be entitled and when absolutely entitled he or she shall bring into account any capital payments received under this clause
- 7.9 to make loans of capital or income (including interest free loans) to any beneficiary under this will upon such terms and conditions as my Executors in their absolute discretion think fit
- 7.10 to revoke or vary any of the administrative provisions in this will or to add any further administrative provisions as my Executors may consider expedient
- 7.11 to be paid if any executor is engaged in any profession or business all usual charges for work done in connection with this will including things which the executor could have done personally

8 Definitions

The phrase "my Executors" shall mean the executor or executors of this will and the trustee or trustees of the trusts in it

9 Beneficiaries' powers

Any beneficiary shall have the power to disclaim in whole or in part any gift under this will.

SIGNED by the said)
)
 as his/her last will in our presence)
 and attested by us in the presence)
 of him/her and of each other)

Witnesses:

Signatures.....)
 Names.....)
 Occupations.....)
 Addresses.....)
)
)