



Reg No. 2015/202609/21

LAST WILL AND TESTAMENT FORM

1. Testator / Testatrix details:

Please complete full names herein as they appear on your identity document.

Name: _____

Surname: _____

Identity number: _____

Marital status / Civil Union: Single In community of Property
Out of community of property with accrual
Out of community of property without accrual
Customary Marriage

Remember that if you are married in community of property that you and your spouse each have an undivided equal share in the joint estate and you can only deal with your share of the estate.

If you are married out of community of property with accrual, then your spouse may have an accrual claim against your estate if he/she is not the heir in your estate and your estate had the bigger growth. This claim will get preference before any bequests pay out.

Spouses sometimes choose to make a joint will. Anyone can make a joint will but it is recommended if you are married in community of property.

Do you want a joint will?

YES

NO

If yes, please complete your spouse's full details (also complete if your spouse is an heir in terms of your estate :

Name: _____

Surname: _____

Identity number: _____

Where do you live?

Town / City : _____

Province : _____

2. Special Bequests

In a will you can distribute your assets in two ways: special bequests and the residuary estate. A special bequest gets distributed first and then what is left goes to the residuary heirs.

It is only necessary to make a special bequest if you want a specific assets or specific amount of money to go to an heir. If you want to leave your entire estate to one or more persons in shares, then it is not necessary to make any special bequests.

If you have any special bequests you can complete it below by stating the asset and to who it must go. Eg. Jewellery to my daughter Jane Doe OR An amount of R10,000.00 to the SPCA.

3. Residuary Estate

Who do you nominate to receive your residual estate?

- Your spouse
- Your spouse and your children in equal shares
- Your children in equal shares
- Your children in differing shares
- Someone else

If someone else, please state who and each person's share eg. John Doe 75% and Jane Doe 25%

In the event of your spouse being your residual heir, who do you nominate if your spouse dies before you?

- Your children in equal shares
- Your children in differing shares
- Someone else

Please state who and each person's share eg. John Doe 75% and Jane Doe 25%

If one of your heirs dies before you, how must their share be distributed?

- Per stirpes (to the heirs of the deceased as determined by Law)
- Distributed proportionately to the other heirs

Children's details:

If your children are heirs in terms of your will, how do you want to refer to them in your will?

- My children (this will include all biological and adopted children already born or to be born in the future)
- By name

If by name, please state their full names below:

Please note that if you exclude any of your children from your will (disinherit him/her), he/she may still have a claim for maintenance against the estate if they were still dependant on you.

4. **TESTAMENTARY TRUST**

If any of your heirs in 2 or 3 above are under the age of 18, their inheritance will be kept in the Guardians Fund until they reach age of majority. The Guardian's Fund falls under the administration of the Master of the High Court. For more information on the Guardian's Fund, you can visit our website at www.bassonroux.co.za.

If you do not want your heir's inheritance to be paid into the Guardian's Fund, you can create a testamentary trust in your will.

KEY ELEMENTS OF THE TRUST:

- The trust is only created upon your death
- You can decide at what age the heirs can receive their inheritance
- You choose the trustees to administrate the trust (important to choose someone you trust).
- The trust funds will be used for the beneficiaries' general expenses like maintenance, education etc.
- The Trustees can apply capital and interest in the Trust fund for the benefit of the beneficiaries.
- If a beneficiary becomes financially distressed the Trustee may use the Trust funds for the benefit of that beneficiary's spouse and/or children, or retain the benefit until a time that the beneficiary is financially stable.
- The Trustee can invest Trust funds; institute legal proceedings on behalf of the Trust; obtain legal advice on the Trust's expense.
- The Trustee will not be held liable for any losses to the Trust when acting in good faith.

- The Trustee shall not be required to account to the Master of the High Court
- The Trustee shall be entitled to charge reasonable fees in accordance with the law

PLEASE ENSURE YOU READ AND UNDERSTAND THE TERMS OF THE TRUST UPON RECEIVING YOUR WILL FROM US.

Do you want to create a testamentary trust?

- Yes No

Only complete the rest of this section if creating a trust:

At what age can the beneficiary receive his/her inheritance?

- 18
 21
 23
 25
 Other _____

Who do you want to appoint as trustees? (Can be one or more. Recommended to have at least two. Institution can also be a trustee.)

Please state their full names and ID number. Same person can be heir, trustee and executor.

If trustee predecease you or do not accept appointment, who do you appoint as trustee?

5. Guardian

A parent who is the sole guardian may appoint a fit and proper person as guardian of their minor child/ren in the event of his/her death. The chosen person must accept the appointment.

If another existing guardian is still alive at the time of your passing, that person will become the sole guardian and your appointment will not be valid.

Please note that it is not necessary to appoint a guardian in your will but it is recommended.

Do you want to appoint a Guardian for your minor children?

Yes

No

If yes, who will be appointed to have custody of your minor children? (You can appoint a sole guardian or two co-guardians. We recommend that co-guardians be married to each other)

Please use a Full Name and Identity Number of your intended Guardian.

If your first choice can or do not accept the appointment, who do you appoint as guardian?

6. Pets

If you have any pets that you want to provide for you can nominate the caregiver of the pet here. You can also leave an amount of money to the caregiver for your pets care and maintenance.

Do you want to provide for any pets in the will?

Yes

No

If yes, state what pet it is, the pet's name and to who the pet must go to:

Do you want to leave any money to the caretaker? If yes, state the amount:

7. Last wishes or other provisions

Here you can state any other wishes you may have for example how or where you want to be buried or whether you want to be cremated etc.

8. Special Clauses

Please note that there are some special clauses you can add to your will like:

- a. **Usufruct** : A limited or temporary right to use and enjoy a property, but does not constitute full ownership of the property.
- b. **Fideicommissum** : Transfers property to another person on the condition that the property be passed on to someone else at a given time.
- c. **Massing** : Massing occurs when two or more persons, with testamentary capacity, combine or consolidate (mass) their separate estates (or their undivided half-shares of their joint estate where they are married in community of property) into a single massed estate, prescribing in the will what must be done with this massed estate on the occurrence of a specific event, usually the death of the first dying testator.

These clauses can be quite complicated and we recommend that you come for a consultation if you want to add it to your estate. Otherwise you are welcome to phone us for more information.

If you do understand these clauses and would like to add it to your estate, please give details thereof here:

9. General provisions

These provisions are added to most wills but can be omitted:

Collation : Gifts made during the lifetime of the parent are not to be included in any distribution in terms of the will without reference to what might have happened many years before. If you do not exclude collation, the siblings can insist that all gifts given to siblings during the deceased's lifetime be taken into consideration which can delay an estate greatly. Do you want to exclude collation?

Yes

No

Exclusion of marriage : Any inheritance that is bequeathed to any heir, as well as any income made out of it will be excluded out of the legal consequences of an existing or future marriage in community of property or subject to accrual. Do you want to add this clause?

Yes

No

10. Executor

An Executor will carry out the terms of your Will. Generally, you can choose almost anyone as the executor of a Will (unless they are under the age of 18). As a result, the most common executors are spouses, siblings and children. The Executor can also be an institution.

If you want to nominate an individual to be appointed as executor, the Master of the High Court will insist that the nominated executor appoints an agent (trust company, attorney) to assist with the administration of the estate if the estate has a value of more than

R250,000.00. This is done by power of attorney, which means that the executor will allow a professional institution to attend to the estate.

The person you choose as executor will be required to submit documentation, such as Fica documents, and, in some cases, be required to attend to certain matters in person.

It is not always easy to be an executor, because it requires certain expertise and an adequate knowledge of deceased estates.

The duties of an executor include the following:

- Interpreting the will.

- Locating all the beneficiaries mentioned in the will.

- Compiling a list of documents and information required by the Master of the High Court and lodging of the same.

- Obtaining letters of executorship.

- Depending on the solvency and complexity of the estate, the executor must apply the necessary steps as provided for by legislation:
 - Open a bank account;
 - Send notices to debtors and creditors;
 - Collect information on all assets and liabilities in the name of the deceased;
 - Finalise tax affairs with the South African Revenue Service;
 - Calculate and pay any estate duty, if applicable;
 - Compile and lodge a liquidation and distribution account;
 - Pay debts and administration charges.
 - Distributing the estate assets.

- Finalising the estate.

Proper administration ensures that the letter and spirit of your will is followed professionally with care and insight, guided by focused expertise.

Basson Roux Attorneys specialises in estate administration and if you do not want to appoint a friend or family member as executor, you can also appoint our firm as executor.

Who do you want to appoint as executor?

My own executor – Please state full name and identity number:

Basson Roux Attorneys Inc.

THANK YOU FOR COMPLETING THIS FORM. PLEASE CONTACT US IF YOU HAVE ANY QUESTIONS.

UPON RECEIPT OF YOUR COMPLETED FORM AND PROOF OF PAYMENT WE WILL DRAFT YOUR WILL AND SEND YOU A COPY WITHIN TWO BUSINESS DAYS.

IF YOU ARE SATISFIED WITH THE WILL YOU CAN PRINT TWO COPIES AND SIGN THE WILL IN FRONT OF TWO WITNESSES. PLEASE REMEMBER THAT A BENEFICIARY IN YOUR WILL CANNOT BE A WITNESS.

YOU THEN KEEP ONE COPY OF THE WILL AND SEND / DELIVER THE ORIGINAL TO OUR OFFICES FOR SAFEKEEPING.