

GUIDE TO THE EXECUTOR / EXECUTRIX

The information contained in this booklet is for the guidance of my executors in correctly discharging my obligations which I may not have completely fulfilled.

I humbly ask Allah's forgiveness & endeavor to fulfill them in my lifetime.

NAME _____

I.D _____

May Allah have mercy on my soul.

Ameen

Introduction

Hadrath Abdullah Ibn Umar Radiallahu Anhu narrates that RasulAllah Sallallahu Alayhi Wassallam is reported to have said: "It is not permissible for any Muslim who has anything to will, that he may pass even two nights without having his last will & Testament written & Kept ready with him."
[Mishkat]

The objects of a will are:

- 1] To comply with Allah Subhanahu Wata 'Ala's commands
- 2] To conscientise oneself of ones obligations
- 3] To detail ones assets & liabilities
- 4] To bequeath one third of the estate

The testator has no say with regards to the portion of the estate devolving on legitimate heirs which must be distributed in accordance with Shari'ah.

ANY WILL CONTRARY TO THE SHAR'IAH IS HARAAM & INVOKES THE WRATH OF ALLAH Subhanahu Wata'Ala.

THE PROPORTIONS:

The determination of the legal heirs & their proportionate shares is fixed in the Qur'an & thus minimizes conflicts.

Allah Subhanahu Wata Ala says in the holy Quran "From what is left by parents & those nearest related there is a share for men & a share for women whether the property be large or small. A share made Fardh [compulsory].

Shari'ah / Legal CAPACITY TO MAKE A WILL

The testator must be:-

- 1] 16 years of age or older
- 2] Of sound mind & memory
- 3] Fully aware of the consequences of the will
- 4] Acting voluntarily

The following may not benefit from a will:

1. A murderer or accessory to the murder of the testator / testatrix.
2. A person who has unduly influenced the testator / testatrix to benefit from the will.
3. A person who witnesses the will or a person who was his / her spouse at the time of attestation.

NOTE:

1. A foetus is recognized by Shari'ah as an heir if born alive within the Islamically acceptable period of pregnancy.
2. Non Muslim relatives may not inherit from a Muslim. However non Muslims or organizations may benefit from bequests.
3. A person who writes or drafts the will on behalf of the testator / testatrix may not benefit from such a will except as a compulsory heir. Such a person may also not be appointed as an executor.

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Please note that the only acceptable marriage contract in Islam is "out of community of property without accrual" If one is married in any other system, please discuss this with an Aalim and if necessary take corrective action. The umhlanga Islamic society [fax 031 5628861] or brother Mohammed [083 9933902] may be contacted for a list of attorneys who could assist for a nominal fee if a legal application to the High court is required.

2. Select an executor / executrix who is conscious of Allah as well as has the time & skills to act on your behalf.

7.2 This booklet serves as a guide to your executors regarding your unfulfilled obligations. Please be meticulous in its completion and update details regularly. Remember that you are required to fulfill your obligations to the best of your ability during your lifetime and every attempt should be made to do so. Unusual circumstances may result in some act remaining unaccomplished and this clause then attempts to compensate for this.

7.2.8 This clause allows for the Testator to bequeath a portion of the estate to persons or organizations who are not heirs. The total of such bequests may not exceed one third of the estate nor may it include any compulsory heir.

1. The guardians Fund receives & administers inheritances due to minors. These funds are deposited in interest bearing accounts making the income Haraam. Executors need to ensure that funds are invested in Shai'ah compliant avenues.

UNPERFORMED SALAAH

Only Fardh [or in the case of Hanafi, Fardh & Wajib] Salaah need to be compensated for. An estimation needs to be made from the time of attaining maturity[Baaligh] and every attempt needs to be made to redeem these. Record hereunder the approximate number missed and update regularly as they are performed.

Date: _____

Salaah	Number outstanding
Fajr	_____
Zuhr	_____
Asr	_____
Maghrib	_____
Esha	_____
Wajib	_____

Compensation [Fidyah]

The executor needs to pay Fidyah for every outstanding Salaah. The current amount needs to be verified with the Jamiat or other competent Darul Ifta. Note that the amount paid may not exceed one third of the estate after payment of funeral expenses and debts & will therefore go unpaid unless paid personally by a well-wisher.

Please update as Qaza Umri is performed.

UNPERFORMED HAJJ

Hajj is obligatory on every sane Muslim once all requisites are present. If one has not performed the Hajj despite it being obligatory, one must repent and perform same at the first available opportunity. Due to old age or sickness, with no hope of regaining health, a proxy may be arranged to perform this obligation. The proxy should preferably be from ones neighbourhood, but if funds do not permit, the proxy may be appointed from Saudi Arabia.

For the benefit of the executor / executrix, please note below whether the Hajj has become compulsory & if accomplished.

Date Hajj become Fardh

Date accomplished

UNPERFORMED QURBANI

One needs to determine which years' Qurbani remain outstanding, the price of the animal in each of those years and give away the total in Sadaqah.

Total of Qurbani obligation remaining unpaid = R _____

This amount is to be updated as payments are made.

OUTSTANDING SAJDH TILAWAT

This special Sajdah is to be performed at indicated points in the Qur'an following its recitation. Unperformed Sajdahs must be promptly redeemed. If any remains outstanding after death, any amount may be given in charity for each Sajdah.

Total number of outstanding Sajdah Tilawat = _____

UNKEPT FAST [SAUM]

A calculation needs to be made of all outstanding fasts including those missed due to legitimate reasons at the time e.g. due to illness, travel, menstruation or childbirth. These must then be redeemed at the earliest opportunity. If however, one is still unable to fulfill this obligation due to frailty or protracted illness and there is no hope of regaining health, Fidyah needs to be paid. Information on these payments needs to be made available to the executor.

Date	Number of outstanding fasts

This number needs to be updated regularly

KAFFARAHFOR UNFULFILLED OATHS

Kaffarah [penalty] must be paid for breaking an oath. An oath [Yamin] is where a permissible act is made compulsory e.g. a student promises to perform a certain number of Nafil Salaah on passing an exam; or a person takes an oath to abstain from a Halaal food.

The penalty for breaking an oath is to feed or clothe 10 poor people or if unable, to fast for 3 days.

Keep records of unfulfilled oaths & dates paid.

Number of outstanding OATHS	Date fulfilled

UNPAID SADAQATUL FITR

A calculation of the outstanding amounts may be made as follows:

- 1] Unpaid amount by your parents for you
- 2] Unpaid amount by you for yourself
- 3] Unpaid amount by you your children

Total outstanding Sadaqatul Fitr = R _____

This amount is to be updated as payments are made.

RECORD OF AMAANAH[TRUST]

The following is a list of amaanah in my possession and their owners.

Items entrusted to me	From whom	Date received	Date returned

Other information that may help the executor/s or Heirs

RECORD OF ASSETS

As at [date] _____

Horizontal lines for recording assets

Pay your debts

The Messenger of Allah {Sallallahu Alayhi Wassallam}said: "a believer's soul remains suspended until all his debts are paid off."{Tirmidhi}

The Prophet {Sallallahu Alayhi Wassallam}did not perform funeral prayers for those who had died in debt. {Bukhari}



