

Legal UK and Shariah-compliant Islamic Will¹

Introduction and Guidelines

If you die without a will, UK law says who gets what. Due to this it is absolutely incumbent upon every sane adult Muslim living in the UK to have a will with a ‘trustee/executor’ who can implement the will according to the Shariah. The inheritance laws stipulated in the Quran must be implemented and cannot be tampered with whether the deceased person likes it or not. Any wealth taken unjustly from a rightful inheritor will be considered as unlawful (haram) wealth. Allah says in the Quran that those who consume this unlawful wealth in reality they are consuming fire into their stomachs and will roast in a blaze (4:10).

1. Things to remember when making a will.

- a) In order to be legally valid under UK law the will must be:
- **In writing** – handwritten or typed or printed².
 - **Made by you voluntarily after the age of 18 and with a sound mind³.**
 - **Signed in the presence of two witnesses who are both over the age of 18** – preferably your signature should be at the end of the will⁴.
 - **Formally witnessed.**
 - **Signed by the witnesses in your presence preferably using the same black pen.**
 - **You can’t leave your witnesses (or their married partners) anything in your will⁵.**
- b) Keep your will in a safe place such as a bank, solicitor’s office, or a company that offers the storage of wills - you can search online.
- c) There should be only one original signed copy of your will. DO NOT MAKE TWO SEPARATE WILLS at the same time.
- d) It is wise to make a photocopy of the will as the original may become lost. A note should be made on the copy of where the original will is kept.
- e) If you want to update your will, you need to make an official alteration (called a ‘codicil’) or make a new will. If you make any changes to your will you must follow the same signing and witnessing process. There’s no limit on how many codicils you can add to a will. For major changes you should make a new will.
- f) Witnesses should be people that do not have a share or benefit under the will.
- g) It is advisable that you tell someone (preferably your executor) where your will is kept.

¹ **Important:** This document has been prepared for information purposes only and does not constitute financial advice under the Financial Services and Markets Act 2000 which supersedes the Financial Services Act 1986.

² In order to be Shariah-compliant a verbal statement is sufficient, but verbalising and writing the will is highly recommended.

³ In order to be Shariah-compliant the age of 18 is not a condition, rather the age of puberty is considered.

⁴ Two witnesses are not a condition in the Shariah, but they are highly recommended in case a dispute occurs.

⁵ This is not the case in the Shariah but it is considered good practice.

h) There is no legal requirement for a solicitor to prepare your will. However, if there are a lot of complex issues involved, then it is better to consult a solicitor. You can get advice from a professional if your will isn't straightforward, e.g.:

- you share a property with someone who isn't your husband, wife or civil partner
- you want to leave money or property to a dependant who can't care for themselves
- you have several family members who may make a claim on your will, e.g. a second spouse or children from another marriage
- your permanent home is outside the UK
- you have property overseas
- you have a business
- your estate is worth more than £325,000

2. Inheritance Tax.

According to current UK law, Inheritance Tax is due when a person's estate (their property and possessions) is worth more than £325,000⁶ when they die. If you're the executor of an estate you need to work out if you need to pay Inheritance Tax.

If you're the executor of an estate you need to work out if you need to pay Inheritance Tax. To see if it's due, you:

- add up the value of everything in the estate (including gifts made in the 7 years before the person died)
- take away any debts, like bills and funeral expenses

There's no Inheritance Tax to pay on anything you leave to your spouse or civil partner who has their permanent home in the UK, even if it's over the threshold. This includes any gifts you give while you're alive. Gifts you make to charities, museums, universities, community amateur sports clubs and the National Trust are exempt. Please consult a solicitor to find out further exemptions.

3. General guidelines concerning Islamic inheritance.

Every last item of the deceased's wealth, even the smallest needle and thread, must be divided up between the inheritors, if it is not possible then it is sold and the money is divided between them. **After returning any trusts and deposits to their rightful owners then the estate of the deceased must be distributed in the following order according to the Shariah:**

1. Funeral and burial costs (washing, shrouding, transportation to a local cemetery, burial place, etc.). This is according to local custom and the financial ability of the individual without being extravagant or stingy. If the deceased doesn't have enough, then it is paid for by those who paid upkeep for the deceased, if not then the government treasury, if not then the wealthy Muslims.

2. Debts. All debts that the deceased is responsible for are to be paid off equally according to their percentages, one debt is not given preference over the other.

⁶ This is correct at the date of writing 2019/2020 but could possibly change in the future.

3. Wills. If the deceased left a will/bequest it can be taken from a third of the remaining wealth, unless all of the inheritors agree to permit it (in the case of it being more than a third). The door of leaving a will is vast and can be made for various things even animals and non-Muslims, but can't be made for one of the inheritors unless all of the other inheritors permit it. Any debts owing to Allah can be made from this third of the estate like missed prayers, fasts, expiations (kaffarat), an obligatory pilgrimage etc. Please consult an Islamic scholar for further details. This will be laid out clearer under the section of 'Gifts, Bequests, and Charitable Contributions.'

4. Inheritance. The inheritors must be given their shares as stipulated by the Shariah, male or female, young or old, rich or poor, the unborn foetus also has a share in the inheritance on the condition that it is born alive. It is a grave and major sin to withhold it from a rightful inheritor. The main purpose of this document is to ensure that this is divided in a proper manner according to the Shariah and UK law.

The causes of inheritance are:

1. Marriage. The marriage must be a valid marriage according to the Shariah, UK law is not considered.
2. Lineage/Relation. Adopted children and children born out of wedlock are not eligible.
3. Allegiance. This can be a voluntary contract between two Muslims if one has no known lineage or accepts Islam for example. Thus the one giving the allegiance would inherit if they were to die without leaving an inheritor.
4. Islam. If none of the above are present then the estate is used for the benefit of the general Muslim populace.

Preventers of inheritance are:

1. Slavery.
2. Murder.
3. Variance in religion.

My Last Will and Testament

In the name of Allah, The Compassionate, The Merciful.

Testator's name: _____

This is the last will and testament made by: _____

Currently residing at the following address: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

I revoke any and all previous wills and codicils made by me, and declare this to be my last will and testament.

Preamble

I bear witness that there is nothing worthy of worship but Allah, the One, the Merciful, Almighty God, Creator of the skies and the Earth and all therein, God of Abraham, Moses, Jesus, Muhammad and all the prophets, mercy and peace be upon them. He is the one and only God and He has no partner. I bear witness that the prophet Muhammad is His servant and His messenger and the last of all the prophets (peace and blessings of Allah be upon them all). I bear witness that Heaven is true and Hell is true. I bear witness that the coming of the Day of Judgement is true, there is no doubt about it, and that Allah, (who is exalted above all deficiency and imperfection) will surely resurrect the dead of all the generations of mankind; the first and the last and those in between.

This is my advice to my family, relatives, friends, Muslim brothers and sisters, and all who remain after I die:

Finally, I ask all my relatives, friends and all others, whether they choose to believe as I believed or not to honour my beliefs: I ask them to honour my instructions and wishes in this document and not to seek to alter or obstruct it in any way. Rather, let them ensure that I am buried as I have asked to be buried and my assets be divided as I have instructed them to be divided.

I declare that I forgive everyone who has backbitten, slandered, or erroneously taken anything from me. I beg of all those who knew me that they please forgive me for whatever I may have erroneously taken from them or said against them.

Executor(s) and trustee(s)

I hereby entrust all my estate: cash, bank accounts, real property, shares in any business, and any other property not mentioned in this will, to the person named below, who shall act as my executor and trustee without any restriction, to distribute it according to the Shariah in general and according to the Hanafi/Shafi'i/Maliki/Hanbali/Shia (Please cross out as required) School in particular. I ordain that the executor and trustee of this will is a Muslim.

I appoint: _____

Currently residing at: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

Phone Number(s): _____

Email: _____

to be the executor(s) and trustee(s) of my estate.

In the event that he/she predeceases (dies before) me or is unwilling or incapable of acting as executor, then

I appoint: _____

Currently residing at: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

Phone Number(s): _____

Email: _____

to be the executor(s) and trustee(s) of my estate.

In the event that he/she predeceases (die before) me or is unwilling or incapable of acting as executor, then

I appoint: _____

Currently residing at: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

Phone Number(s): _____

Email: _____

to be the executor(s) and trustee(s) of my estate.

Funeral and Burial Requests

- I direct my Executors, surviving relatives and friends to ensure that I have a funeral strictly in accordance with the Shariah.
- I want to be buried at a Muslim cemetery or Muslim section of the cemetery and according to the manner of Islamic funeral rites.
- I instruct that no autopsy or embalming be done on my body unless required by law. In the event that an autopsy becomes a legal requirement, I would wish that this is met through an MRI scan if my Trustees deem it appropriate.

Additional requests:

- _____
- _____

Debts and Expenses

I direct my executor and trustee:

- To return to the rightful owners all trust and property that are in my care at the time of my death.
- To first apply the assets of my estate in the order prescribed by the Shariah to the payment of all my legal debts, including such expenses incurred by my last illness and burial as well as the expenses of the administration of my estate.
- To pay any outstanding obligations due to Allah (huquq of Allah) which are binding on me, these are as follows:

<u>Type of Debt</u>	<u>Amount owed</u>	<u>Estimated Cost</u>
<i>Obligatory prayers (Namaz/Salah)</i>		
<i>Obligatory fasts (Roza/Sawm)</i>		
<i>Obligatory pilgrimage (Hajj)</i>		
<i>Vows to fast (Sawm mandhur)</i>		
<i>Vows to give charity (Sadaqah mandhurah)</i>		
<i>Expiation for Ramadan (Kaffarah Ramadan)</i>		
<i>Expiation for murder (Kaffarah Al-Qatl)</i>		
<i>Expiation for ihram violations (Jinayat Ihram)</i>		
<i>Expiation for an oath (Kaffarah Al-Yamin)</i>		
<i>Other expiations</i>		
<i>Charity of Al-Fitr (Zakah al-Fitr)</i>		
<i>Redemption (Fidyah) payment of Ramadan</i>		

Gifts, Bequests, and Charitable Contributions

I hereby make the following gifts & contributions not to exceed one third (unless the inheritors permit more than one third) of the remainder of my estate after deductions of the debts and obligations I owe to Allah and individuals, or organizations or the community⁷:

*Outstanding zakah payments can be added to this category, but not exceed one third as above.

1. To (name of person or organization): _____

Address: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

Phone Number(s): _____

Email: _____

Amount/Percentage of estate/Item: _____

2. To (name of person or organization): _____

Address: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

Phone Number(s): _____

Email: _____

⁷ Gifts and contributions (unless the other inheritors agree to permit them) can only be given to non-inheritors, such as distant relatives or others who do not have a fixed portion of inheritance stipulated by the Shariah. This is because the Prophet (peace be upon him) said: "There is no bequest for an inheritor." It is important to make this distinction since most Muslims do not know this ruling.

Amount/Percentage of estate/Item: _____

3. To (name of person or organization): _____

Address: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

Phone Number(s): _____

Email: _____

Amount/Percentage of estate/Item: _____

Custody of Minor Children and Guardianship

I appoint as the guardian of any of my children who are under the age of eighteen at the time of my death whoever has the legal right according to the Shariah in general and according to the Hanafi/Shafi'i/Maliki/Hanbali/Shia (Please cross out as required) School in particular. Please refer to an Islamic scholar or imam in order to arrange this.

Residuary Estate

After payment of my just debts, funeral and testamentary expenses and the legacies given by this will I leave all the rest of my property of whatever kind (including any property over which I may have a general power of appointment or disposition by will) to my executor(s) and trustee(s) ON TRUST to sell, call in, and convert the same into money but with full power to postpone the sale calling in and conversion thereof for so long as they in their absolute discretion shall think fit AND to discharge therefrom my just debts and my funeral expenses and to stand possessed of the remainder (hereinafter called "my residuary estate") upon and subject to the following provisions of this my will.

MY EXECUTOR(S) AND TRUSTEE(S) shall hold the Trust Fund ON TRUST absolutely to be distributed and where relevant invested in accordance with Shariah in general and according to the Hanafi/Shafi'i/Maliki/Hanbali/Shia (Please cross out as required) School in particular. Absolute discretion shall determine provided that such distribution does not breach English Law in which case my executor(s) and trustee(s) shall apply such modifications as are necessary to comply with English Law.

In case of any difficulty in distributing my estate according to this Will, the matter should be referred to a Muslim knowledgeable in Islamic Inheritance Law for advice and guidance.

Testator's Signature

I the testator sign this on today's date: ____ / ____ / ____ and in the presence of the witnesses below.

Testator's name: _____

Signature: _____

(Signature of the Testator)

Attestation and Witnesses

Signed by the above testator in the presence of us the witnesses being present at the same time and signed by each of us in the presence of each other and the testator.

Full Name: _____

Currently residing at: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

Phone Number(s): _____

Email: _____

Occupation: _____

Signature: _____

(Signature of witness)

Full Name: _____

Currently residing at: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

Phone Number(s): _____

Email: _____

Occupation: _____

Signature: _____

(Signature of witness)

Full Name: _____

Currently residing at: _____

City/Town: _____

Borough/County: _____

Postcode: _____

Country: _____

Phone Number(s): _____

Email: _____

Occupation: _____

Signature: _____

(Signature of witness)