

We are here to talk about

MAKING A WILL
And
WHY EVERYONE
SHOULD MAKE ONE.

Let me start by giving you a real-life scenario:-

Father and Mother have 2 sons – Boy A & Boy B. After 14 years of marriage, the Father abandons the family. No contacts thereafter.

6 years thereafter, the mother files for divorce.

2 years thereafter, she passed away.

Tragically, Boy B passed away 7 months ago thereafter, at the age of 22 years.

Now who inherits Boy B's estate?

- i. The Father
- ii. Boy A
- iii. Both

THE ANSWER:

The Father gets 100%.

Why?

This is as provided at Section 7 rule 5 of the Intestate Succession Act, Cap 146, ie the governing law.

Sounds unfair right?

If Boy B has made a will, at least his brother could have inherited the estate instead of the father that abandoned the family.

So how do you avoid such a situation?

The answer is simple.

Make a Will.

THE IMPORTANCE
OF
MAKING A WILL

As the saying goes....

"Where there's a Will, there's a way...Where there is no Will, there will probably be family feuding..." – Judge Judy [TV show]

What is a Will
and
the benefits of making one?

A WILL is a document in which you provide for:-

- a. the administration of your estate/assets when you die; and

- b. the distribution of your possessions in specific proportions to specific people whom you wish to have a share of your estate/assets;
- c. appoint a person or persons of your choice to administer your estate; and
- d. appoint a guardian or guardians for your infant children (if any).

Do you need one?

Since most of us die possessing property, most of us need a WILL.

What if you die without making
a Will?

If a person should die without a WILL, then the law will decide to whom the property of the deceased person should go to.

Do you make your own Will
or
get professional help?

It is advisable that professional legal advice be sought to ensure that formalities and legal requirements are followed.

If such formalities or any legal requirements are not complied with, your WILL may be invalid or ineffective and your estate can be distributed in accordance with the laws ie Intestate Law.

When does a Will take effect?

A WILL takes effect only upon your death.

Therefore, during your lifetime, you are free to dispose of your assets. You should not be restricted in any way in the disposal of your assets just because those assets have been specified to be disposed of in accordance with your WILL.

What are the requirements of a Will?

Requirements:

- a. You must be 21 years of age;
- b. You must be of sound mind;
- c. It must be in English and in writing (handwritten or typed);
- d. It must be signed in the presence of 2 adult witnesses who are not beneficiaries to your estate;
- e. There must be 1 executor; 2 executors if there are minor beneficiaries; and
- f. Every time you make a Will, you must revoke any earlier Wills.

What properties can you distribute under your Will?

Most of your property may be distributed by way of a WILL but the following property, for example, require special consideration :-

- a. properties held in joint tenancy;
- b. CPF monies where there had been a valid nomination;
- c. Monies/proceeds under insurance policies where there had been a valid nomination;

d. Properties held on trust for the benefit of a third party.

Can overseas assets / properties
be included in your Will?

Yes. You can.

Can you change your Will?

Yes you can.

A WILL can be changed by way of a Codicil (an addition) or by revoking the existing WILL and drawing up a new WILL.

If you are single at the time when you made your Will, take note that marriage automatically revokes your Will.

How often can you change
your Will?

You can do that as often as you like. There is no restriction, though you have to ensure that your old will is destroyed every time you make a new one.

When should you change your
Will?

A WILL is required to be updated or changed in the following circumstances :-

- a. when you marry or divorce;

- b. when a beneficiary stated in the Will dies and there is no substitute beneficiary provided for;
- c. when the person(s) appointed as the executor(s) or guardian(s) die(s) or is/are no longer able to fulfill that role and no substitute executor(s) or guardian has been appointed;
- d. when there is a change of heart as to who the beneficiaries should be or what property is to be given to whom;
- e. when a beneficiary has changed his/her name; and
- f. when there is a significant change in the composition of assets.

Do you need to inform your
executor once you have
made your Will?

It is best that you do so, and extend a photocopy of your Will to them. Alternatively, you can also register the particulars of your Will at the Wills Registry run by the Public Trustee's Office. It is not necessary for the beneficiaries to know the existence of your Will.

What are the duties and
obligations of an executor of
your Will?

The executors' duties include but are not limited to the following:-

- giving the proper notices to the proper parties;
- collecting all your assets/property;
- receiving claims against the estate;
- paying taxes, debts, just claims and disputing others;
- selling estate property to cover debts or to allow for distribution;
- distributing the estate property according to your WILL.

Should a husband and wife
make a Mutual Will?

Yes they can as long as they are distributing the identical assets. Otherwise, it is best that separate wills be made.

Can a Muslim make a Will?

Yes you can, but you have to distribute your assets in accordance with Muslim law ie Syariah Law. This is governed under Section 111 of the Administration of Muslim Law Act.

Before a Muslim dies, he can draw up a will to distribute his assets. However the will must adhere to the following conditions:-

- a. The amount portioned for the will must not be more than one-third of the deceased's total assets.
- b. The will cannot be made for any of the beneficiaries who will get their share from faraidh (ie Islamic Law of Inheritance*)

*By applying for Inheritance Certificate with Syariah Law.