

## Online Will Generator FAQ

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### 1. What is a Will?

A Will is a legal document in which a person ("**Testator**") documents his/her wishes on how he/she would want his/her assets to be distributed on his/her death. The assets will be distributed to the beneficiaries named in the Will by the Executor nominated by the Testator in his/her Will. In Singapore, the Will is governed by the Wills Act (Cap. 352).

### 2. What if I don't have a Will?

If no Will is left behind when a person dies, such a person will be said to have passed away **Intestate** and his/her assets will be distributed in accordance with the Rules set out in the Intestate Succession Act (Cap 146). The Rules identify the beneficiaries who are entitled to the deceased's assets and specify the order of priority of distribution, based on their relationship to the deceased and it is accordingly important to leave a Will behind if the intention is to prevent the Rules from operating.

### 3. Who is the Testator?

The Testator is the person who makes the Will. To be a Testator, a person must be over the age of 21 and be of sound mind.

Please note that this Online Will Generator service is not suitable for Muslims as Muslim Testators are subject to additional mandatory rules and requirements under Singapore laws.

### 4. Who is the Executor?

The **Executor** is the person appointed by the Testator under his/her Will to carry out the wishes of the Testator in accordance with the Testator's Will. An Executor, also known as "the Trustee", can also be a beneficiary under a Will and a Testator can

appoint more than one Executor in his Will. Where there is more than one Executor, they must act jointly (together).

Please note that the Online Will Generator does not allow for the appointment of joint Executors. However, the Online Will Generator allows a Testator to appoint an alternative Executor. If the Executor is for any reason unable to execute the terms of the Will (for example, where the Executor has passed away), the alternative Executor will take over duties of the Executor.

An Executor must be over the age of 21, not be a bankrupt and must be of sound mind in order to carry out his/her duties under the Will.

Some of the Executor's duties would include:

- (a) Applying for Grant of Probate for the deceased;
- (b) Making funeral arrangements for the deceased;
- (c) Settling the lawful just debts owed by the deceased; and
- (d) Taking possession of and distributing the assets of the deceased in accordance with the Will.

If circumstances are such that an Executor refuses or is unable to take up his office, the Testator's family should seek legal advice as to how next to proceed.

#### **5. Who is the Beneficiary?**

A Beneficiary is a person who benefits from the distribution of a Testator's assets under the Testator's Will.

In the event a Beneficiary is a minor (i.e. below 21 years of age), the assets bequeathed to him under the Will will have to be held by the trustee appointed under the Will (or if none, by the Executor) until the minor Beneficiary turns 21 years of age (or, in the case of certain classes of assets, 18 years of age).

For more information please refer to [Information for Minor Beneficiaries](#).

#### **6. Who should be Witnesses to a Will?**

There must be at least 2 witnesses present during the Testator's signing of the Will. These 2 witnesses must be of sound mind, be above the age of 21 years old, and must not be beneficiaries under the Will.

It is best to have somebody trustworthy and of good character such as a relative, close friend, a lawyer or family physician (none of whom can be beneficiaries) to be witnesses.

#### **7. What is the Online Will Generator?**

It is an online tool that allows users to generate a basic Will based on a user's input in a form containing pre-determined fields. It can be accessed through our [website](#) as an OCBC Life Goals planning tool.

#### **8. What is meant by a "basic" Will?**

A basic Will is, as its name suggests, a "no-frills" Will providing for a simple distribution of a Testator's assets to his/her beneficiaries in specified proportions.

The Will generated using the Online Will Generator is not intended to cover circumstances such as the creation of specific trusts or protective trusts for spendthrift beneficiaries or for the distribution of assets outside of Singapore.

As the Online Will Generator is meant to be a “basic” Will that covers all your assets, if you have assets located outside of Singapore and your Will only governs the distribution of assets located in Singapore, you should take great care not to accidentally revoke any other Wills you may have made specifically for such assets in other countries. You should seek legal advice if you have assets in different countries.

**9. What if I need legal advice for more complicated Wills?**

For the drafting of more complicated Wills, please seek legal advice from a Singapore qualified lawyer.

You may refer to the [Legal Services Regulatory Authority, Ministry of Law](#) for more information.

**10. Can everyone use the Online Will Generator?**

The basic Will generated is intended to cater to Singapore citizens and residents of 21 years of age and above only.

As the Islamic laws of inheritance and distribution are mandatorily applied for Muslims in Singapore, the Online Will Generator service is not suitable for Muslims.

The Online Will Generator allows users to specify the names and details of a user’s nominated beneficiaries as well as the details of the asset(s) (including monies, securities, property, etc.) that are given by the Testator under his Will in their favour.

For the drafting of more complicated Wills, please seek legal advice from a Singapore qualified lawyer. You may refer to the [Legal Services Regulatory Authority, Ministry of Law](#) for more information.

**11. Can I retrieve my Will from the Online Will Generator?**

No. Once the Will is generated and/or the session expires or is closed, users can no longer retrieve or edit the draft Will. If you need to make changes to your Will, you will need to start over again.

**12. How can I access the Online Will Generator?**

It can be accessed through our [website](#) as an OCBC Life Goals planning tool.

**13. Where should I store the Will?**

The Will should be stored in a safe and secure location (such as a safe deposit box). This location should be made known to the Executor(s) so that he/she knows where to retrieve the Will in order to admit the Will to probate. Although not compulsory in law, the notification to the [Wills Registry](#) that a Will has been made (for which a fee is chargeable) would enable an Executor/Beneficiary to find out if the deceased had last made a Will and if so, where it was last made and where the original Will, or a

copy of it, is held. However, please note that the Wills Registry neither stores nor keeps a copy of the Will.

The original copy of the Will has to be produced in Court for probate purposes. The appointed Executor will need to see a lawyer to obtain the Grant of Probate. As the Grant of Probate is a legal document that empowers the Executor(s) to carry out the instructions in the Will, great care must be taken to keep the original Will safe and secure.

You may refer to the [Ministry of Law](#) for more information.

**14. Can OCBC Bank staff members sign as witnesses to my Will?**

OCBC Bank staff members should not be witnesses to your Will. In the event the validity of the Will is in dispute, the Executor would have to find and seek the cooperation of the witnessing OCBC Bank staff member(s) to give evidence (if necessary) in court. If the OCBC Bank staff member(s) have left the bank, this will be challenging.

You should have somebody trustworthy and of good character such as a relative, close friend, a lawyer or family physician (none of whom can be beneficiaries) to be witnesses.

**15. What is a residuary clause?**

Normally, a Testator will make certain specific gifts of his/her assets under his/her Will to a particular beneficiary(ies). A residuary clause is normally inserted in the Will to capture any assets remaining thereafter to ensure that any undistributed assets are distributed or dealt with. This includes, for example, assets acquired after a Will is made – such as lottery winnings.

**16. In what circumstances will a Will be contested?**

A Will may be contested when it does not comply with the required formalities (for example, having only 1 witness). A Will can also be contested if it is proven that the deceased was of unsound mind or was subject to undue influence during the drafting or signing of the Will.

Under the Inheritance (Family Provision) Act (Cap. 138), if the Will fails to provide for a Testator's dependents, such as their spouse and/or children, the Court may make an order for "reasonable provision" out of the deceased's assets in their favour.

If the Testator is separated from his/her ex-spouse, and it is the Testator's intention to exclude or restrict the assets to said ex-spouse or dependants, great care must be taken in the drafting of such a Will and you should to seek legal advice on the matter.

There may be other circumstances in which a Will is contested and users should seek legal advice if they have any further questions. Please refer to the [Legal Services Regulatory Authority, Ministry of Law](#) for more information.

**17. Who determines the outcome of a contested Will?**

The Family Justice Court and the High Court of the Republic of Singapore have jurisdiction over any contentious probate proceedings in Singapore.

**18. How can I prevent my Will from being contested?**

Apart from ensuring that you comply with all formalities in the making of a Will, in the event you are unsure of or have any doubts in relation to the same, please seek legal advice on the matter.

Users may refer to the [Legal Services Regulatory Authority, Ministry of Law](#) for more information.

**19. What steps can I take to validate my Will?**

Please check the following:

- (i) the Testator cannot be a minor and must be of sound mind;
- (ii) the Testator must sign the Will before 2 witnesses;
- (iii) the witnesses should be above the age of 21;
- (iv) the witnesses must be of sound mind;
- (v) the witnesses cannot be beneficiaries under the Will;
- (vi) the witnesses' full particulars should be inserted into the Will in the event it is necessary to contact them; and
- (vii) the original Will must be produced in an application for Grant of Probate once the Testator has passed away.

**20. Will my Will be revoked upon my marriage or divorce?**

Any Will made shall be revoked upon a Testator's marriage (Section 13 of the Wills Act (Cap. 352)), and a new one should be made by the Testator after his marriage should he wish to preserve his wishes under his pre-marriage Will.

However, upon divorce, any existing and unrevoked Will is not automatically revoked and a Testator should make a new Will in view of the change in circumstances.

For the drafting of more complicated Wills, you should seek legal advice from a Singapore registered lawyer. Users may refer to the [Legal Services Regulatory Authority, Ministry of Law](#) for more information.

**21. Will my Will be revoked if there is a change in my personal details such as name, or identification number, or residential address?**

No, it will not. However, for change of name, the Deed Poll evidencing the name change must be produced to the Family Justice Court hearing the probate application.

**22. Can my Will take precedence over any current life insurance policy I have?**

If no nominations are made by an insured under his/her life insurance policy, any insurance proceeds under that same policy will form part of the insured's estate to be distributed under his/her Will. If the insured does not have a Will, it will be distributed in accordance with the rules of intestacy.

If a nomination has been made under an insurance policy, a Will can take precedence over the nomination as long as the Will identifies the person(s) who are to benefit from the proceeds of the insurance policy. The Will must also include all salient information of the relevant policies as required by the Insurance Act (Cap.

142) and Insurance (Nomination of Beneficiaries) Regulations 2009. Your insurer should also be notified in the form prescribed by law.

However, any failure to notify your insurers does not invalidate the gift under the Will but will lengthen the process of pay-out to the relevant beneficiary(ies).

For drafting of more complicated Wills, you should seek legal advice from a Singapore registered lawyer. Users may refer to the [Legal Services Regulatory Authority, Ministry of Law](#) for more information.

**23. Is my money in my Central Provident Fund (CPF) accounts covered by the Will?**

The money in your CPF accounts cannot be distributed using a Will. You will have to make a CPF nomination with the CPF Board in order to designate how you would like your CPF savings to be distributed by completing a CPF Nomination Form.

Please refer to the [Central Provident Fund Board](#) for more information.

**24. Is my money in joint deposit accounts covered by the Will?**

The distribution of money held in joint account(s) is not covered by the Will generated using the Online Will Generator. You should seek legal advice.

For drafting of more complicated Wills, you should seek legal advice from a Singapore registered lawyer. Users may refer to the [Legal Services Regulatory Authority, Ministry of Law](#) for more information.

**25. Who is a Testamentary Guardian?**

A testamentary guardian is appointed by a Testator in his/ her Will and shall be a joint caretaker of a child or minor when the child's biological parent, the Testator, has passed away and is no longer able to provide care. When so appointed, the testamentary guardian shall act jointly with the surviving biological parent unless the surviving parent so objects to the testamentary guardian.

**26. What is 'Gift of Immovable Property' in the Will?**

Gift of Immovable Property refers to the transfer of rights, title, interest and benefits that the Testator has in an Immovable Property(ies), to a specified beneficiary(ies). After the Testator has given his specified assets (including his Immovable Property(ies)) to the specified beneficiary(ies), a clause should be inserted in the Will to specify how and to who the rest and residue of the Testator's assets should be given or dealt with. This is often known as a residuary clause.

For drafting of more complicated Wills, you should seek legal advice from a Singapore registered lawyer. Users may refer to the [Legal Services Regulatory Authority, Ministry of Law](#) for more information.

**27. What is 'Gift of Monies' in the Will?**

A Gift of a sum of money can be made in a Will either by specifying a fixed sum to be given to a specified beneficiary or identifying an account(s) belonging to the Testator in which the monies in the account are to be given to a particular beneficiary(ies). After the Testator has given his specified assets (including any Gift of Monies) to the

specified beneficiary(ies), a clause should be inserted in the Will to specify how and to who the rest and residue of the Testator's assets should be given or dealt with. This is often known as a residuary clause.

For drafting of more complicated Wills, you should seek legal advice from a Singapore registered lawyer. Users may refer to the Legal Services Regulatory Authority, Ministry of Law for more information.

**28. What types of assets does the Will cater for?**

An estate's assets consist of everything a Testator possesses and to which a Testator is beneficially entitled. These may include monies, immovable properties (such as a house or undeveloped land), bank and insurance policies, investments, cars, and so on.

Should a Testator have included the specific gifting of property(ies) or fixed sum(s) in the Will, the remaining assets for distribution would consist of everything other than those aforementioned gifts.

**29. What is the role of the Appendix in the Will?**

Lists of assets and other special instructions will be attached to the Will as part of an Appendix. These instructions are not mandatory and are not legally binding, but they may help the Executor(s) locate the Testator's assets more easily. Any specific gifts should be addressed under "Gifting of Property" and "Gifting of Fixed Sum" and not in the Appendix.

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**30. What are the terms and conditions governing the usage of the Online Will Generator?**

The Online Will Generator is intended to be a source of general information and reference for users to generate a basic Will. Such a basic Will (and any subsequent amended version) may not meet all of a user's requirements due to its simplicity.

For the drafting of more complicated Wills (such as gifting specific assets to individuals, distribution of foreign assets, potential conflict between beneficiaries, distributions of assets relating but not limited to matrimonial proceedings, etc), you should seek legal advice from a Singapore registered lawyer. Users may refer to the [Legal Services Regulatory Authority, Ministry of Law](#) for more information.

The use of the Online Will Generator is at user's own risk. OCBC Bank does not act as adviser to the user and does not assume liability for any matters arising from the use of the basic Will generated from the Online Will Generator, or any reliance placed on it by users.

**31. Does OCBC Bank store my information collected?**

Yes. In using the Online Will Generator, users must accept the terms and conditions set out in OCBC Bank's Data Protection Policy, which is available [here](#).

Third party information (such as the names and NRIC numbers of executors and beneficiaries) and the full NRIC of the Testator will not be stored by OCBC Bank.

**32. How long will the information collected be retained?**

We will only retain your personal data for as long as necessary for the purpose for which that data was collected and to the extent permitted by applicable laws.

**33. What does OCBC Bank do with the information collected?**

OCBC Bank may and reserves the right to use and disclose the information collected for analysis, marketing, and the reasons set out in OCBC Bank's Data Protection Policy, which is available [here](#).

**34. Is the information collected stored securely?**

Yes. The information collected is encrypted and stored securely on OCBC Bank's servers.

The information provided is as of 14 November 2018.