



FREQUENTLY ASKED QUESTIONS ON WRITING WILLS IN UGANDA



INTRODUCTION

Planning for how your property will be managed and distributed after your death is an important step in protecting your loved ones and preventing conflict. In Uganda, the law provides clear guidelines on how a valid Will is made, who can benefit from it, and what happens when someone dies without one.

This Frequently Asked Questions (FAQ) guide summarises the key rules under the Succession Act, explaining the essentials of making a will, storing it, changing it, and what happens when it is challenged. It also addresses common real-life situations involving spouses, children, joint property, and complex family arrangements.

TABLE OF CONTENTS

- 01. Section 1:** The Fundamentals of a Will
(Creation, Validity, and Content)
- 03. Section 2:** Administration, Storage, and Execution of a Will
- 04. Section 3:** Challenging, Contesting, and Invalidating a Will
- 05. Section 4:** Intestacy (When There Is No Will)
- 06. Section 5:** Specific Scenarios and Complex Family Dynamics
- 08. Section 6:** Wills vs Trusts and Other Estate Planning Tools
- 09. Section 7:** Practical Concerns and Miscellaneous

SECTION 1

THE FUNDAMENTALS OF A WILL (CREATION, VALIDITY, AND CONTENT)

This section covers the basic "how-to" and legal requirements for creating a valid will.

01 What is A Will?

"The word 'will' has two distinct meanings. A will is the sum (total) of what you wish to happen upon your death.

Secondly, a will is the document or documents in which the intention of wishes is expressed."

02 What do I need to make a will?

You must be at least 18 years old and of a sound mind. (A sound mind means that a person has sufficient mental capacity (cognitive and emotional) to understand the nature and consequences of the decisions they are making).

03 What should a valid will contain / All that is necessary for the will to be valid / What to include in a will

A valid will should clearly identify you, your property, and the people you want to give it to (beneficiaries).

Secondly, it should name an executor (the person you choose to carry out your wishes).

Thirdly, the will should be in writing and signed by the person making the will. It can be a signature or a mark, such as a thumbprint, but it should be intended. (If you can't sign, someone else can sign it for you in your presence and under your direction.)

At least two witnesses must be present to see you sign, and they must sign every page of the will in your presence, writing their names, addresses, and occupations. (Sections 29, 47.)

A template is provided in Schedule 4 of the Act to guide you. (Section 38, Schedule 4).

04 Can it have burial instructions that must be followed?

It is not compulsory to include burial arrangements, but it reduces issues of conflict and arguments after you are gone. (Remember the judge who took almost So, you can include burial instructions in your will. It is the duty of your executor to perform your funeral in a manner suitable to your condition. (Section 272).

05 Is a will valid If it is not signed by a lawyer, an LC chairperson or relative?

Yes.

The law requires the signatures of the person making the will (the testator) and two witnesses of his or her choosing. Those are the only required signatories. (Section 47).

06 Do the witnesses to the will have to be relatives?

No.

Witnesses do not have to be relatives. In fact, a witness or their spouse should not be a beneficiary (like a child or relative) in the will, or else that gift to them will be void. (Section 51).

SECTION 2

ADMINISTRATION, STORAGE, AND EXECUTION OF A WILL

This section deals with what happens after the will is written and after the testator passes away.

07 Who is the right custodian of a will

After writing your will, you should keep it in a very safe place. You can store it with a lawyer, in a bank safety deposit box, or at the offices of the Chief Registrar or Deputy Registrar of the High Court.

The offices of the Chief Registrar or Deputy Registrar of the High Court are the official places appointed for safe custody of wills.

Remember to tell your executor and family members where the will is located. So, they can collect it with proof that you are dead. (Section 333).

08 How will I let people know about my will?

Once you have chosen where to store your will, you should personally inform your appointed executor and your close family members that you have written a will and where it is being kept. If it is at the officially recommended location (Office of the Chief Registrar or Deputy Registrar of the High Court), then your family members/ the executor may need to produce proof that you are deceased.

09 How often can I change my will?

You can change your will as many times as you wish, at any time, as long as you are still of a sound mind and not under duress (by force). You can change it by making a new will or by adding a supplement that makes small adjustments or details to your will.

This addition is called a "codicil" (Section 37).

10 How does debt affect it

Debts must be paid before any gifts in the will are given out. The executor must use the estate's assets to pay all the deceased's debts first. (Section 281).

SECTION 3

CHALLENGING, CONTESTING, AND INVALIDATING A WILL

This category focuses on the conflicts that can arise after death and the legal grounds for challenging a will.

11 Under what circumstances can a will be contested?

Remember, a will is an expression of final wishes which must be done without coercion, fraud or force, and you must know what you are doing and its consequences. If your will was made through fraud, coercion, or undue influence, or you were not of sound mind at the time it is invalid.

The law also requires that the intention of the will maker is clearly shown by them properly signing and having witnesses who also sign the will. IF any of this is missing, that will also be invalid.

Finally, even if it is your will and your wishes, the law cannot allow you to disadvantage people who rely on you or whom you are supposed to take care of. So if your will does not make reasonable financial provision for the spouse, children, or dependent relatives, it can be contested. (Sections 30, 31, 36.)

12 If a will is written in the local language, who is authorized to interpret it?

If a will is written in a local language and submitted to court, a certified translation into English must be attached. The court itself is the ultimate authority that will interpret the will, using all evidence available to understand the true intentions of the person who made it. (Sections 58, 59, 241.)

13 What to be done if the will is tampered with?

If you suspect a will has been tampered with, you should bring this to the attention of the court when the will is being submitted for probate. The court will examine the evidence. If fraud or tampering is proven, the will (or the tampered part) will be declared void. (Section 230).

SECTION 4

INTESTACY (WHEN THERE IS NO WILL)

This section covers the default rules of inheritance that apply when someone dies without a valid will.

11 **Where do we start from if the person died when there was no will?**

If someone dies without a will, the law assumes that it knows how that person would have wanted to distribute their property but did not get a chance.

So, the succession law has rules of distribution which are a standard way that property should be distributed. This is how the property will be shared by your family.

Your family should start by approaching the Administrator General's office and opening a file to process what is known as a Certificate of no objection. This document tells the court that the Administrator General will not stand in the way of a family member getting legal authority ("Letters of Administration.") to manage the property of the deceased.

Once this is done, and the family has selected someone (called an administrator) to have this authority, that person can apply to the court for "Letters of Administration."

When this is granted by the court, then the person can gather the deceased's property, pay debts, and then distribute what remains according to the rules set out in the Succession Act. (Section 187).

15 **Is sharia-based distribution of property of the deceased recognized by law**

The Succession Act is the general law that applies to all Ugandans, regardless of religion. While the Act respects the role of a "customary heir," the fixed percentages of distribution it sets (e.g., 75% to children, 20% to spouse) override any other distribution system, including Sharia law, for non-Muslims. The Act's application to Muslims may be subject to specific exemptions, but the primary law is the Succession Act.

16 **If we were in a marriage with more than one wife, how is the property be shared?**

The law refers to "a spouse" as the legally married partner of a person, a husband, or a wife. In the context of a polygamous family, there may be more than one wife but one husband. In this case, the 20% share for the spouse will be distributed among the surviving spouses. The children will be entitled to 75% for lineal descendants, irrespective of their mother. (Sections 2, 23).

SECTION 5

SPECIFIC SCENARIOS AND COMPLEX FAMILY DYNAMICS

This section groups together complex, real-life situations that involve spouses, children, and non-traditional families.

17 **What happens to the family home when the husband or wife passes away?**

With a Will, a person can leave their property to anyone except the family home.

The family home is called a residential holding. By law, no one is allowed to give away in a will. It automatically goes to the surviving spouse and children. Furthermore, if the will does not make reasonable financial provision for the spouse and children, they can apply to court to have this corrected.

If a spouse dies without a Will, the law will allow its default distribution rules to apply. The family home will belong to the spouse and children. The rest of the estate will be shared as follows: the spouse gets 20%, the children get 75%, dependent relatives get 4%, and the customary heir gets 1%. (Sections 22, 23, 30).

18 **All our property is in both our names. What happens if one of us dies?**

When Property is owned jointly (with both names on the title) it passes to the surviving owner(s) by the right of survivorship and does not form part of the deceased's estate to be distributed under a will or the intestacy rules.

19 **Can a man make his daughter an heir if he has not been able to produce sons?**

Yes, absolutely.

The law makes no distinction between sons and daughters. The term "lineal descendant" and "child" includes all children, both male and female. Daughters have equal rights to inherit. (Sections 2, 18).

20 **Can all my property be given to my only child?**

Yes.

You can leave most of your property with your only child in your will. However, you cannot give away the family home if your spouse is alive, it is protected for them. Also, if you are married, you must leave reasonable provision for your spouse, or they can challenge the will in court. (Sections 22, 30, 31).

21 What happens when someone is abandoned by their husband and he passes on

If a couple is legally married but separated (not living in the same household), the surviving spouse generally loses the right to inherit from the estate.

However, there are exceptions, such as if the deceased was the one who caused the separation. The surviving spouse can also apply to court within six months of the death to ask for a share. The children from that marriage, however, retain their full rights to inherit. (Section 26).

SECTION 6

WILLS VS. TRUSTS AND OTHER ESTATE PLANNING TOOLS

This section is for questions about alternatives and supplements to a standard will.

22 I would like to know more about trusts vs wills. / Writing a will and opening up an irrevocable trust... which one is better ?

A **Will** takes effect only after you die. It directs how your property should be distributed.

A **Trust** is a legal arrangement where you transfer property to a Trustee to manage for the benefit of beneficiaries (e.g., your children). It can be used while you are alive and can continue after your death.

Which is better?

It depends on your goals. A will is simpler and cheaper. A trust is more complex and costly to set up but offers more control, especially if you want to manage how and when your children receive their inheritance (e.g., until they turn 30). They are not mutually exclusive; you can have a will that creates a trust upon your death.

SECTION 7

PRACTICAL CONCERNS AND MISCELLANEOUS

This section covers fears, awareness, and other general questions.

23 Can I write a Will when I'm an administrator of the Estate of a deceased spouse?

Yes.

Being an administrator of your spouse's estate involves managing their property. You are free to write your own will to dispose of your own personal property.

24 Can I write a will with my spouse? A kind of joint will?

Ugandan law does not provide for a single "joint will." Each spouse must make their own separate and individual will. This means that even if you are married and bought property that is in both of your names, you cannot write one Will. You are required by law to write your own personal Will.