

## How to Sign a Will

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### INTRODUCTION

In terms of South African law, if your will is not signed properly and fully as directed by legislation, it will not be valid and enforceable upon your death. Unfortunately, all too often people go to great lengths (and sometimes, expense) to put their final wishes onto paper, only for their heirs to find out several months after the testator's death that the will is not considered valid.

Although it is possible to bring an application to court to have an invalid will declared valid in certain instances, this is a time consuming and expensive exercise, which is made all the more difficult where one or more of the heirs, or other third parties looking to benefit from the will, oppose the court application. To avoid difficulty down the line ensure that your will is properly signed by following these directions.

[Note that the directions below are slightly more onerous than the strict legal requirements, meaning that we have erred on the side of caution and included one or two additional requirements (for convention, or safety's sake) which are not strictly required by law.]

### TESTATOR SIGNATURE *(assuming you are the testator)*

1. You must be at least 16 years or older and competent to give evidence in court.
2. You must personally sign every page in the bottom right-hand corner, where it says "testator" or any other person you direct can sign on your behalf given they sign in your presence.
3. You must do this using a pen, not a pencil.
4. You must do this in the presence of your two witnesses, whoever they may be.
5. Please sign in every space provided on every page. On all pages except the last page, your signature will be at the very bottom right. On the last page the signature may be further up the page, right underneath the last bit of text, rather than on the very bottom right. Please take care to sign in every signature space.
6. You are welcome to put your full signature on every page, if this makes you feel more comfortable.

In law you only need to put your initials on every page other than the very last page, where you need to please put your full signature.

7. If you cannot sign normally and can only do so by using a mark, it must be done in the presence of a commissioner.

### WITNESS SIGNATURE

1. You need at least two witnesses, but you can have more if you want.
2. They must be older than 14 years and able to understand what their signature is (i.e. witnessing your signature).
3. They should not be your beneficiaries (i.e. anyone who gets any benefit under the will).
4. They should not be your executor, or any person you have appointed as an administrator or trustee of your trust.
5. They must be present at all times when you sign the will.
6. They need to put their initials on the bottom left hand side of every page, other than the first page, in the signature places provided.
7. They need to put their full signature on the last page, in the space provided, and clearly type their names. If possible and not too much of an inconvenience, if they can give their email and mobile contact details too.
8. They need to sign in your presence.

### PERSONS WHO WITNESS ARE EXCLUDED FROM OBTAINING BENEFITS UNDER THE WILL

Please don't ask any person who receives any benefit (any inheritance, or is nominated for any position such as executor, trustee, etc) to sign the will, because there is a possibility that they (and even their spouse!) might be excluded from being able to take any benefit under the will if they are a witness to it.

## CONCLUSION

Avoid a nasty surprise by ensuring that your will is properly and fully signed by all relevant parties. Contact the Private Clients (Fiduciary, Estate and Trusts) Department if you require assistance with signing a will or any other issues pertaining to wills and deceased estates.



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