GUIDELINES FOR A PERSON WHO IS WRITING A WILL UNDER UGANDAN LAW



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ACKNOWLEDGEMENT

Living with HIV/Aids is a challenge. Going public about one's HIV status can add to the pressures and problems. But it also gives the chance to talk openly to children about the family situation and to get advice about how to make secure plans for their future care. This docuement has been written following many legal advice sessions with individuals and groups of mothers living with HIV in Uganda who led the way in being open about their health with their children and family.

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Understanding the legal words used

TESTATOR.
In legal language the person writing the Will is called the Testator.

TESTATE.
This is the word used when someone who dies has left a legal Will. In such cases the property will be distributed following instructions of the person who has written the Will. If any relative or other person attempts to seize property which has been included in the Will, it will be easier for the children or dependents to get help from the authorities to get it back.

INTESTATE.
This word describes the situation where a person has died without leaving a legal Will. In these cases the person's property is distributed following strict rules under the Law of Uganda. If relatives or neighbours seize the property it will be more difficult for the children and dependents to claim it back if the person has died intestate.

EXECUTOR.
This is the formal name for the person you ask to carry out the instructions in your will. It is important to make sure that the person you wish to name is willing to take on this responsibility.

BENEFICIARY.
This is the formal name for the children, dependents and any others to whom you leave property in your Will.

GUARDIANS FOR YOUR CHILDREN UNDER AGE 18.
You should include full details of the person or people whom you want to take care of your children following your death. It is very important to talk to these people in good time, to make sure they are willing to take on this responsibility.

USING A WILL FORM.
It is not essential to use a printed Will Form. But it helps to do so because the form will help you to include all the necessary information. This will make it easier for the Executors to carry out your wishes.

LANGUAGE OF THE WILL.
You can use any language which you understand well. However, after your death the Will has to be translated into English so if you can write it in English this will avoid any misunderstandings in translation.

What is needed to make a will legal

WITNESSES.
Your signature on the Will has to be witnessed by two independent people. They do NOT have the right to see what you put down in the Will - they only have to see you sign it. They should NOT be beneficiaries – that is they should not be expecting to receive anything from the Will.

PROOF OF OWNERSHIP OF PROPERTY.
If you have land or other property it is important to leave a note to say where the title deeds can be found, also bank books and other important documents.

SIGNATURES.
People who don't write easily can sign with a thumb print.

KEEPING THE WILL SAFE.
Make three copies of your Will. Keep one with your other important documents. Give the other copies to people you trust. For instance a reliable friend or elder, a **named** representative of your bank or the authorised representative of your local court.

FOR THE WILL TO BE LEGAL:

- **AGE.** You must be 21 years old or above.
- **UNDERSTANDING WHAT YOU ARE DOING.** At the time of writing your will, you must be in sound mind, you must not be drunk or under influence of drugs and you must be in a state where you fully understand what you are doing.
- **NO OUTSIDE PRESSURE.** No-one is allowed to interfere with your decisions about what to put in your Will and you have to sign to say that you have freely made the Will without pressure from other people.
- **THE WILL MUST INCLUDE:**
  - ✦ Your full name and address, names of your parents & where you were born & name of your husband or partner (or deceased husband/partner.)
  - ✦ Name, age and address of all your children any any other dependants.
  - ✦ Name of heir or heiress in cultures where this applies.
- **DISTRIBUTION OF PROPERTY.** Write down all your property and the names and ages of the people you want to inherit from you. Give clear instructions about how you want your property to be shared between these people.
- **WITNESSES.** Your signature on the Will must be witnessed by two independent people.
- **GUARDIANS.** The people you have chosen to take responsibilty for your children should be named in the Will.
- **EXECUTOR.** Include the name of the person you wish to carry out your instructions.