



International Wills

The term, “international will” often refers to a Will that is intended to take effect in more than one jurisdiction. A similar term is, “offshore will”, which may refer to a second will that has been prepared to deal with an individual’s foreign assets.

For example, an individual domiciled in South Africa may also have assets located in the British Isles. In this example, the individual may decide to have one will in South Africa and also to have a separate will to deal with the succession to the “offshore” assets in the British Isles.

Here is an outline of the process and considerations that we take when preparing an international or offshore will:

1. The first stage is to compile information on the client concerning their existing Will(s), estate planning, family, assets, liabilities, the jurisdiction(s) where the assets are registered and the client’s testamentary wishes. To compile this information, we will forward a Will questionnaire to the client, which can be completed electronically and sent back to us by email.
2. Once this information is available, we can then analyse whether preparing an international or offshore will is appropriate for the client. For certain foreign assets, it may be more appropriate for a client to just have one international (worldwide) will.
3. As well as analysing what type of Will is appropriate, we will analyse what the best Will structuring for the client will be. Using the example at the introduction, we will recommend whether it is best for an offshore will to apply to all jurisdictions outside of South Africa or, depending on the client’s circumstances, it may be best for the offshore Will to only apply to the British Isles with the South African will applying worldwide – except for the British Isles.
4. Once we establish whether to prepare an international or offshore will, we will then quote a fixed fee for the client’s approval. Once the fee is approved, we will then send our letter of engagement and terms of business to the client for their approval. Our letter of engagement will also outline the identification documents that are required from the client.

5. Once our terms have been agreed and the client has been identified, we will then prepare a draft will with an accompanying commentary for each clause. The commentary is designed to assist the client with understanding and approving the draft Will.

6. Following approval of the draft Will, a final version will be prepared for the client to execute (sign in accordance with law). Depending on the client’s domicile, nationality, location of the assets and the jurisdiction where the Will is being executed, we will advise on the correct way of executing the Will, so that it is recognised as valid in the relevant jurisdictions.

7. Once the Will has been executed, the original version can either be kept in our firm’s safe storage for no fee or, alternatively, the original can be kept in safe keeping with the client or their advisors.

8. It is important that the client’s family and executors are made aware of the existence of the Will and that the executors have access to a copy and know where the original is kept.

9. If a second Will has been prepared and the client plans to subsequently update the Will in their home jurisdiction – they should always advise the person who drafts the Will that they have a second Will and to present a copy. This is to avoid the updated local Will containing a clause which accidentally revokes the second Will.

10. If the circumstances change in the future for the client, for example, testamentary wishes change or the nature or location of the foreign assets change, we will consider if any updates to the will are required.

To request a Will questionnaire, please email us at info@LA-law.com.

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