
WILL OF PETER SMITH

This is the last will of me, **Peter Smith** of Wellington, School Teacher.

1. Will Limited to New Zealand Assets

- (a) I declare this my last will to be in respect of my property which is situated in New Zealand and that this will does not apply to any property which I may own which is situated outside of New Zealand.
- (b) I revoke all earlier wills in respect of my property which is located in New Zealand.

2. Executor and trustee

I appoint my spouse Mary Smith, the sole executor and trustee of this my will, ("my trustee"), but should my spouse die before me, then I appoint Patrick Harold Smith and David William Gray, to be the executors and trustees of this my will (together called "my trustee").

3. Residue

I give all my estate to my trustee on trust:

- (a) To pay my debts and funeral expenses, my estate's administration expenses and any death duty payable on my dutiable estate;
- (b) If my spouse, Mary Smith, survives me for 30 days, then I give devise and bequeath all of the residue of my residuary estate to my spouse, but if my spouse does not survive me for 30 days, then I give devise and bequeath all of my residuary estate to my children, and if more than one, in equal shares;
- (c) If any child of mine for whom I have made provision in this my will dies before me, or is living at my death but dies before taking a vested interest in my residuary estate, leaving a child or children surviving the one who has died and me, then that child will take or those children will take equally the share which his, her or their parent would otherwise have taken under in my residuary estate;
- (d) If no person shall acquire an absolutely vested interest under the foregoing paragraph or paragraphs, then I give my property after payment of my debts to Medecins Sans Frontier.

4. Guardian

If my spouse Mary Smith shall not survive me, then I appoint Susannah Fitzgerald to be the guardian of my infant children.

5. Powers

I declare that my trustee will have these powers and authorities, to exercise at my trustee's discretion:

- (a) To retain all or any of the investments which I own at my death, even if they are not investments authorised by law for the investment of trust funds. My trustee will not be responsible for any loss occasioned by reason of the retention of such investments.
- (b) To let any real and personal property at such rent and on such terms and conditions as my trustee thinks reasonable and to manage and re-let leases and tenancies in my estate, and to accept surrenders of them.

- (c) To sell my real and personal property or any part of it in the manner and on the terms that my trustee shall think fit, including a term allowing a part of the sale price to remain outstanding on mortgage.
- (d) To postpone the sale, calling in and conversion of my real and personal estate or any part of it for so long as my trustee thinks fit, even if it is of a wasting, speculative or reversionary nature.
- (e) To borrow money at such rates of interest and on such terms and conditions as my trustee thinks fit, and use it for any purpose which my trustee considers to be of benefit to my estate or to any of my beneficiaries. My trustee may give security for repayment over my real and personal property or any part of it, even if some part given as security receives no benefit from the borrowing.
- (f) To purchase as an asset of my estate any property or interest in property which my trustee considers will benefit my estate or any of my beneficiaries.
- (g) To appropriate and partition any real or personal property forming part of my estate in or towards satisfaction of the share of any of my beneficiaries and to charge any share with such sum of money by way of equality of partition as my trustee may think fit. For this purpose my trustee may fix the value of any part of my estate, and my trustee's decision on the value, appropriation and partition will be binding on my beneficiaries.
- (h) My trustee (or any of them), may purchase from my estate any part of my real and personal property either by private sale or by public auction, despite my trustee's office as trustee. My trustee must pay a price for any asset which is not less than the amount of a valuation to be made for the purpose of the purchase by two registered valuers, or by their umpire if the valuers cannot agree on a valuation.
- (i) To pay for repairs, alterations and improvements to any part of my real and personal property and to charge those payments either to capital or to the income of my residuary estate (or in part to each) as my trustee thinks proper.
- (j) To subdivide or develop any real property, an interest in which is owned by me at my death and to employ appropriate persons to do all things required to carry out the subdivision or development.
- (k) My trustee may use all or any part of the vested or contingent interest of any minor beneficiary for that beneficiary's maintenance, education, advancement or benefit. Payments may be made for those purposes to a parent or guardian of such a beneficiary, without my trustee requiring that person to account.
- (l) To accept a receipt from any charity or other organisation for which I have made provision in this my will, as a complete discharge for the benefit which is given to that charity or organisation, and my trustee shall not be bound to see to or to ensure that the charity or organisation applies the provision that I have made for any particular purpose.
- (m) To lend any money to any beneficiary either with or without security, on such terms and conditions as my trustee may think fit, without being responsible for any consequent loss.

- (n) To give any guarantee for the benefit of my estate or any beneficiary, whether alone or together with any other persons or company.
- (o) To continue or acquire and carry on any interest in any business, or to commence and carry on any business, either alone, in partnership, or on a corporate basis and to exercise all usual powers of management and control for such period as my trustee may decide.
- (p) To take and act upon the opinion of any lawyer practising in New Zealand or in any other jurisdiction whether in relation to the interpretation of this will, any statute, or as to the administration of my estate, without being liable in respect of any act done by my trustee in accordance with such opinion, and to make any application to the court that my trustee may think fit. All expenses of any opinion or application will be paid out of my estate.

6. Disposal of my Body

I direct that my body be cremated and my ashes buried at Greytown.

7. Professional Charges

My trustee, instead of acting personally, may employ and pay any other person to transact any business or to do any act in relation to the trusts of this will and any trustee of this will who is a solicitor, chartered accountant or other person engaged in any profession or business, shall be entitled to charge and to be paid all usual professional fees for any business done by him or her or his or her firm, in connection with the trusts of this will.

Dated the _____ day of _____ 20____

Testator

Signed by the Testator in our presence and attested by us in the presence of the Testator, and in the presence of each other:

Witness Signature

Witness Signature

Witness Name

Witness Name

Witness Occupation

Witness Occupation

Witness Residence

Witness Residence

Signing and Storing Your Will

Now that you have received your will document, we recommend that you do the following;

1. Print one copy of the will on good-quality, white, A4 sized paper. Ordinary 80 gsm photocopying paper is fine.
2. Clip the pages of the will together temporarily with a paper clip, or fold-back clip.
3. You then need to assemble two witnesses who are to watch you sign your will and to both also sign as witnesses. Neither of the witnesses should stand to benefit in any way from your will. None should be a beneficiary or even a relative of a beneficiary. If, for example your will makes provision for your sister, then one of your sister's children should not be a witness. Someone who is to be a trustee, but who will not take any personal benefit under your will, may be a witness.
4. It is very important that you and your two witnesses are all present during the signing and witnessing of your will, and that all three of you are paying attention to what is happening throughout the whole process. Your will will not be validly signed if you do not follow this process. If, for example, one of you has to leave the room, or to attend to a child or to take a phone call, you should stop the process and only carry on once all three of you are paying full attention. If something happens part way through the signing that causes you to postpone, the best course of action is to destroy the partly signed will and to print a new copy of the will. Then start the signing again later when you and both of the witnesses are present, and able to pay attention throughout the process.
5. You should be the first person to sign. Both witnesses must watch you do so. Sign the will where it is indicated for you to do so at the end. Then initial each other page, at the foot of the page. The cover sheet does not have to be signed or initialled, but if you accidentally initial the cover sheet, it is not a problem.
6. Then the first witness should sign where it is indicated for a witness to sign, and the witness should print his or her name, occupation and place of residence, and then initial all other pages. Both you and the second witness must watch the first witness sign and initial.
7. Then the second witness should repeat the process that was followed by the first witness. Again, both you and the first witness must watch while the second witness signs and initials.
8. Signature and witnessing should look like the following;

C W Smith i.e., your signature

SIGNED by the testator in our presence and attested by us in his presence

Celia Clare Williams i.e., a normal signature

Witness signature

Celia Clare William i.e., printed name

Witness name

D V Harris

Witness signature

David Vernon Harris

Witness name

Registered Nurse

Witness occupation

Teacher

Witness occupation

Wellington

Witness town of residence

Wellington

Witness town of residence

9. Insert the date where there is provision for it to be inserted, before the place for signing.
10. Take as many photocopies of your signed will as you think that you will need. You may need a copy to give to your trustees. Many people choose not to give anyone a copy to avoid confusion if you later change your will and then do not give a copy of the changed will to the person to whom you gave the first copy.
11. Staple the will together in the top left hand corner.
12. Place the signed original of the will in an envelope or file cover, and put it in a safe place. Remember, that this will may be required many years later. You should do whatever is necessary to protect the document from decay and damage.
13. Do not attach anything to your will. Don't pin, staple, glue or even use a paper clip to attach anything to your will. Do not punch any holes in it. If you do any of those things, you will make it difficult for your executors and trustees to obtain court authority to administer your estate after your death.

This page was last updated on 1 May 2016.