Making a Will in Guyana

IMPACT Justice is a Project funded by the Canadian Government. It is being implemented by the University of the West Indies Cave Hill Campus in 13 CARICOM Member States: Antigua & Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Suriname and Trinidad & Tobago.

The outcome of the project is enhanced access to justice benefiting men, women, youth and businesses. The components are: legislative drafting, establishment and expansion of legal databases, alternative dispute resolution (ADR), legal professional education and standards, and public legal education.

**Where should I store my Will?**

You should file the original Will in the Registry where it will remain sealed (closed) until needed. You should also give a copy to your Executor and let your closest relatives know who that Executor is.

**What are the Executor’s Duties?**

Your Executor is responsible for paying your funeral expenses. The money comes out of your Estate in priority over all other gifts so it may be a good idea to set aside a sum of money for this in a designated account.

Your Executor will then gather in all money owed to you and pay all the bills that you owe. Once this process is complete, the Executor will distribute your property according to your Will.

**Do I need to leave my children anything?**

You must make proper provision for your dependents. If you do not, they can apply to the court for maintenance to be paid from your estate. Your dependents include your spouse (or someone who has been living with you as husband and wife for five years), your children and any other persons whom you partly or fully maintain. The court will consider their financial needs and the size of your estate.
Why do I need a Will?

A Will lets you say exactly how you want to distribute your possessions. If you do not write a Will, then your property will be distributed according to the laws of intestacy — divided among your children or other relatives in equal shares, no matter how close (or not) you were to them in life.

A Will is especially important where you have persons (such as step-children) who are close to you that are not blood relations, since they are not entitled to benefit under the laws of intestacy.

What do I need?

Make sure you have the full names and, if possible, the addresses of the persons that you want to mention in your Will.

If you are over 70 or have been unwell, then you should obtain a medical certificate to show that you are mentally competent (of sound mind).

You will need two people to witness your signature. They do not need to read the Will but they do need to watch you sign and to watch each other sign. Neither your witnesses nor their spouses can receive gifts in your Will, and any gift you leave them will then be invalid. Make sure that your witnesses write their full names and addresses along with their signatures so that they may be easily found when the time comes.

If your Will has more than one page, then you should number each page and sign at the bottom.

Can I change my Will?

Yes. You are free to change your mind at any time. You can dispose of your property during your life time, or change your mind about who you want to leave it to. Your Will does not take effect until after your death.

You must write a new Will when you marry because, except in very rare circumstances, your old Will becomes automatically void on marriage. Your Will does not become automatically void on divorce, however, and if your relationship breaks down, you should review your Will to ensure that it still reflects your wishes.

In fact, you should review your Will regularly, and especially if a beneficiary or executor dies, or if you part with any of the property mentioned in the Will or acquire new property.

You can cancel your Will by destroying all copies, or by writing a new Will and using the words “I revoke all previous Wills”.

Once your Will has been signed and witnessed, you must never attempt to change it by crossing out words or writing on it. Instead, you can create a Codicil (supplemental Will), or simply create a new Will. Both the Codicil and the new Will must be properly signed and witnessed. The witnesses do not have to be the same as before.

How can I provide for my minor children?

You should appoint a Guardian for your minor children. This could be their other parent, or it could be a godparent or grandparent. This is especially important where you are worried that the children might lose contact with your family and friends after your death.

Since minors cannot own property, you should also appoint a Trustee who will hold and manage any money or property that you leave for your children. The Trustee will be responsible for using the money to pay for the children’s education and maintenance if necessary.