

Bismillahir Rahmaanir Raheem

Last Will
 and
Testament
 of

Name

Address

I.D. Number

[illegible]

Shari'ah / legal information for Testator/ Testatrix

- 1] You must be mentally capable of understanding the nature and consequences of your Will.
- 2] You must be 16 years of age or older.
- 3] Witnesses must be aged 14 years or older and competent to give evidence in a court of law.
- 4] Sign each page of the will [preferably in black pen], yourself and together with two competent witnesses present at the same time and in each others' presence.
- 5] The following persons may not sign as witnesses: - heirs, those named as beneficiaries, guardians, executors or trustees [and their spouses]
- 6] Any additions, deletions and changes to the Will must be legible and individually signed by the Testator and each witness in the margin opposite the changes. Please avoid additions, deletions and alterations as these could cause problems later. It is preferable to make a new Will if you desire any change.
- 7] It is recommended that your Will be executed under the supervision of a person nominated by the Jamiatul Ulama or other competent Darul Ifta. You may otherwise not word provisions correctly which could invalidate your Will.
- 8] If you are signing with a cross or thumbprint, please do so in the presence of a commissioner of oaths.
- 9] Testator means a man who makes a Will. Testatrix means a woman who makes a Will.
- 10] Assumption means discretion given to the executor/executrix.

Advice to the Testator

- 1] Take time to ensure meticulous completion of your will.
- 2] The copy of your Will should be kept with other important documents. Inform one or more responsible members of your family of its location. Without placing unnecessary burden on anyone, you may also inform them of any specific wish in relation to your Janazah. Noting this in the Will itself may often be too late as most Islamic Wills are read only after the funeral rites have been completed.
- 3] The booklet accompanying your Will "Guide to the Executor/ Executrix" must be updated regularly. Please try to keep clear records of what you own, what is owed to you and what you owe. It should not be that due to negligence or laziness we are made to repay someone in the Hereafter with the currency of the Aakhira [our few precious good deeds]
- 4] If you are married in any way other than "**Ante nuptial without accrual**", the marriage contract may be contrary to the Shari'ah. Please seek appropriate advice in this regard and if necessary, have the contract legally altered so that it conforms to the Shari'ah.

You may contact the Umhlanga Islamic Society fax 031 562 8861 or brother Mohammed [083 99 33 902] for a list of attorneys who are willing to assist for a nominal fee.

Advice to the Heirs

- 1] Contact the family doctor or local hospital for a death certificate. Contact the local burial service for funeral arrangements. Request a calm friend or family member to assist in this regard.
- 2] Ensure family members conduct themselves in a dignified manner in keeping with Islamic principles.
- 3] Heirs [either collectively or individually as the case may be] are responsible for payment of recurring accounts e.g. electricity & telephone to ensure continued services.
- 4] Do not take any action regarding any asset before proper consultation with the executor/ executrix.
- 5] Inform the employer and pension fund as soon as possible for early processing of benefits.
- 6] The estate is to be wound up as expeditiously as possible.
- 8] Do not decide collectively to donate from the estate. It may be that one of the Heirs may not be in a position to do so, but out of embarrassment will agree.

Waasiyat of the Mayyit

1. Please give me a quick but proper ghusal immediately so that Ibadat can commence.
2. Put me in a room without pictures and facing the **Qibla**. Do not allow any **ghair mahram** to see my face and do not allow any lady with hair showing to sit in the room.
3. Do not cry loudly.
4. Do not allow any **ghair mahram** to carry my Janazah out of the house or inside the grave. Please do not delay my Janazah.
5. Do not make any performance for me a compulsory occasion. Read on behalf of all marhooms from anywhere at all times.
6. Do not gather at my house especially on Thursday and have parties. Do not force yourselves to bring cakes and savouries and then judge whose are nice. I won't be there to give any comments.
7. If you read the Quran or any particular Surah from the Quran, please ensure you have proper Wudhu and conform with its adhab eg. those relating to the hijab of your body and voice. Do not feel obliged to read long Surahs. I will greatly appreciate it if you read one Kalimah or Durood or perform one good action with sincerity on my behalf. *InshaAllahi* it may serve as a mercy for both of us.
8. If you read Surah Ikhlāas only three times, I will get the Sawaab of reading one Quran.
9. Please do not beautify my grave with flowers. Instead give the money to the poor and beautify the grave with your presence and duas.
10. If I have offended you in any way now or when alive, Please forgive me.

Inna Lillahi wa ina Ilayhi rajioun.

You may contact the Umhlanga Islamic Society

Fax : 031 562 8861

for a list of attorneys who are willing to assist for a nominal fee.

My Dear Child – some useful advices

Bismillahir Rahmaanir Raheem

My dear child, [or other relevant person]

You will be reading this after my death. Please read the following as though I am addressing you from my Qabr. I may now be lying underground within a space of approximately two metres by one metre. All around me is sand except for the pieces of wood above supporting the load of sand. That too is weakening and the entire load of sand may soon fall directly on me.

Be assured that I loved you. My heart and soul was concentrated on you from the time Allah *Subhanahu Wata aala* granted you to me. Your beautiful and innocent smile reminded me of Allah *Subhanahu Wata aala's* beauty. Your cry caused me immense pain and I went out of my way to comfort you. As you grew and attended Madrassah to learn the name of Allah *Subhanahu Wata' Aala*, the Quran and how to perform Salah, you represented an investment to me far greater than any worldly investment I may have left behind. You would make duas and seek forgiveness on my behalf when I would be unable to do so.

My dear child, that day has come. You are on the face of the Earth and I may be lying paralysed in its belly. How true is the Hadith of Rasulullah *Sallallahu Alaihi Wassallam* that a person in the grave is like a drowning person. He awaits the rewards from his beloved. Dear child, I cannot utter a single Subhanallah. You are my flesh and blood. I love you and if you really love me, I implore you to:

1. Be obedient to Allah *Subhanahu Wata' Aala*, That is the greatest reward for you. I am informed of whatever you do; your good deeds please me and your bad deeds cause me pain.
2. Dear child, I know the pain of my death and my absence will gradually decrease and you will carry on with your life. Don't let the engagement of the world make you oblivious of death. Think of me regularly and know that your day will come soon. To remember death and to prepare for it, send Yaseen every day for me. I will look forward to receiving it.
3. If you can, give some Sadaqa and charity to the poor and needy on my behalf. Allah *Subhanahu Wata' Aala*, gave you, you love me, give on my behalf.
4. I am lonely in the Qabr. Come and visit me and make Salaam to me. You may not see me or hear me, but InshaAllah I may see you and hear you. Your standing beside me and making Dua at my Qabr will invoke Allah *Subhanahu Wata' Aala's* mercy on both of us.
5. Remember, we are from Allah *Subhanahu Wata' Aala*, and to Allah *Subhanahu Wata' Aala*, is our return. We are merely travellers for a brief moment, but our actions here will determine our future for ever.

Dear child, exercise patience. We will meet in the Aakhira Insha Allah. For that, guard yourself against Shaitan and his tricks.

Aameen

The advices "my dear child" above have been received from Mufti Desai of Darul Ifta, Camperdown. The Will has been checked and approved by Darul Ifta, Camperdown as well as a lawyer.

The Will has been prepared and distributed for Esaale Sawaab of my beloved parents. May Allah *Subhanahu Wata Aala* shower them with mercy and accept this token of my immense indebtedness to them.

Aameen

Further copies of this Will and accompanying cover and booklet "guide to the executor" may be made for free distribution with intention of Esaale Sawaab of your loved ones.

However, if any amendments are to be made, please verify its correctness with Darul Ifta Camperdown.

May Allah guide us to correctly fulfil our obligations.

LAST WILL AND TESTAMENT

I, the undersigned [name]

[illegible]

Married out of community of property [ante nuptial] without accrual to:-

1]	I.D.
2]	I.D.
3]	I.D.
4]	I.D.

hereby declare this to be my Last Will and Testament.

1.

I hereby revoke, cancel and annul all previous wills, codicils and other testamentary writings or statements made or executed by me at any time before.

2.

I hereby nominate, constitute and appoint as the executor/s of this my Will and Administrator/s of my Estate, the following person/s:

2.1 _____ Identity Number _____

2.2 _____ **Identity Number** _____

2.3 _____ **Identity Number** _____

3.

In the event of any one or more of my said Executors or Administrators predeceasing me, or dying during his/her term of Office or declining to act, then the remaining or surviving Executor /s or Administrator /s shall be authorized to act alone.

4.

Furthermore, in the event of all such Executor/s or Administrator/s predeceasing me or dying during office or declining to act, then I declare that the Jamiatul Ulama Natal or other competent Darul Ifta shall be authorized to appoint one or more Executor/s or Administrator/s.

AS WITNESSES:

1. _____

2. _____

TESTATOR / TESTATRIX

Name _____

I.D.								
------	--	--	--	--	--	--	--	--

6. State of any other matter connected with the above.

therewith or arising therefrom, the matter shall be referred to the Arbitration Board of the
 March 11, 1911, following exactly the same steps. Except by mutual consent of both

assets in my Estate in the following order of priority as required by Islamic Law.

7.1.1 First to the payment of my funeral expenses.

7.1.2 Second to the payment of all my debts.

7.1.3 Third to the payment of the Wasiyyat / Debts as set out in Clauses 7.2.1 to 7.2.6

7.2.8
7.1.4 Distribution of the residue of my Estate to my heirs in terms of Islamic Law.

[illegible]

7.2.1 Unpaid Zakaat

7.2.1	Unpaid Zakat
7.2.2	Unaccomplished Hajj

7.2.3 Unkept Fast / Saum

7.2.4 Unperformed Salah (Prayers)

7.2.5 Unfulfilled Kafarah
7.2.6 Undischarged Qurbani

7.2.6	Undischarged Qurbani
7.2.7	Interest [impermissible income]

7.2.8 Other [including donations to charitable organizations]

a).....

b).....

Accordingly, I hereby direct that such amounts shall be paid to such persons or institutions as my Executor/s and Administrator/s in their absolute discretion, shall

institutions as my Executor/s and Administrator/s in their absolute discretion, shall determine to be entitled thereto according to the laws of Islam. The total amount payable

ES:

1. _____

2. _____

TESTATOR / TESTATRIX

Name _____

[illegible]

distribution of my Estate.

9.

he has married or may marry.

TESTATOR / TESTATRIX

Trust as will come into existence.

relating to the devolution of my estate.

[illegible]

12.

In the event of there being any dispute relating to the interpretation of this Will, or the Administration, liquidation or distribution of my Estate or any other matter connected therewith or arising therefrom, the matter shall be referred to the Arbitration Board of the Jamiatul-Ulama Natal or other competent Darul Ifta whose decision shall be final and conclusive.

13.

This done and executed at..... this..... day of.....20....
corresponding with the Islamic date in the presence of the
subscribing witnesses, who signed in each other's presence, all being present at the
same time.

TESTATOR / TESTATRIX

Name _____

I.D. _____

AS WITNESSES:

1. _____

Name _____

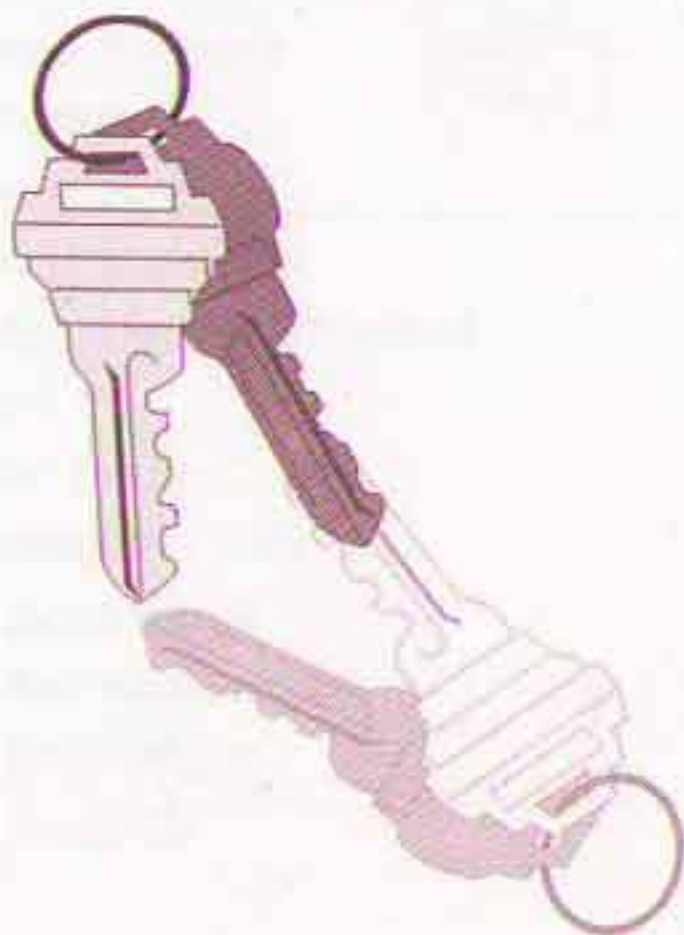
I.D. _____

2. _____

Name _____

I.D. _____

Guide to the Executor / Executrix



Insha Allah

The information contained in this booklet is for the guidance of my executors in correctly discharging my obligations which I may not have completely fulfilled.

I humbly ask Allah's forgiveness & endeavor to fulfill them in my lifetime.

Name

I.D.

May Allah have mercy on my soul.

Ameen

Guide to the Executor

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Introduction

Hadrath Abdullah Ibn Umar *Radiallahu Anhu* narrates that RasulAllah *Sallallahu Alayhi Wassallam* is reported to have said: **"It is not permissible for any Muslim who has anything to will, that he may pass even two nights without having his last Will & Testament written & kept ready with him."** [Mishkat]

The objectives of a will are:

- 1] To comply with Allah *Subhanahu Wata'Ala's* commands
- 2] To conscientise oneself of one's obligations
- 3] To detail one's assets & liabilities
- 4] To bequeath one third of the estate

The testator has no say with regards to the portion of the estate devolving on legitimate heirs which must be distributed in accordance with Shari'ah.

ANY WILL CONTRARY TO THE SHAR'IAH IS HARAAM & INVOKES THE WRATH OF ALLAH *Subhanahu Wata'Ala*.

THE PROPORTIONS :

The determination of the legal heirs & their proportionate shares is fixed in the Qur'an & thus minimizes conflicts.

Allah *Subhanu Wata 'Ala* says in the holy Quran **"From what is left by parents & those nearest related - there is a share for men & a share for women - whether the property be large or small. A share made Fardh [compulsory]."** S4.V7

Shari'ah / Legal CAPACITY TO MAKE A WILL

The testator must be :-

- 1] 16 years of age or older.
- 2] of sound mind & memory
- 3] fully aware of the consequences of the Will
- 4] acting voluntarily

The following may not benefit from a Will

1. A murderer or accessory to the murder of the testator/testatrix.
2. A person who has unduly influenced the testator/testatrix to benefit from the Will.
3. A person who witnesses the will or a person who was his/her spouse at the time of attestation.

Note

1. A foetus is recognized by Shari'ah as an heir if born alive within the Islamically acceptable period of pregnancy.
2. Non Muslim relatives may not inherit from a Muslim. However non Muslims or organizations may benefit from bequests.
3. A person who writes or drafts the Will on behalf of the testator/testatrix may not benefit from such a will except as a compulsory heir. Such a person may also not be appointed as an executor.

GUIDE TO CONTENTS OF THE WILL

Please note that the only acceptable marriage contract in Islam is "out of community of property without accrual" If one is married in any other system, please discuss this with an Aalim and if necessary take corrective action. The Umhlanga Islamic Society [fax 031 562 8861] or brother Mohammed [083 99 33 902] may be contacted for a list of attorneys who could assist for a nominal fee if a legal application to the High Court is required.

2. Select an executor/ executrix who is conscious of Allah as well as has the time & skills to act on your behalf.

7.2 This booklet serves as a guide to your executors regarding your unfulfilled obligations. Please be meticulous in its completion and update details regularly. Remember that you are required to fulfill your obligations to the best of your ability during your lifetime and every attempt should be made to do so. Unusual circumstances may result in some act remaining unaccomplished and this clause then attempts to compensate for this.

7.2.8 This clause allows for the Testator to bequeath a portion of the estate to persons or organizations who are not heirs. The total of such bequests may not exceed one third of the estate nor may it include any compulsory heir.

10. The Guardians Fund receives & administers inheritances due to minors. These funds are deposited in interest bearing accounts making the income Haraam. Executors need to ensure that funds are invested in Shari'ah compliant avenues.

UNPERFORMED SALAAH

Only Fardh [or in the case of Hanafi, Fardh & Wajib] Salaah need to be compensated for.

An estimation needs to be made from the time of attaining maturity [Baaligh] and every attempt needs to be made to redeem these. Record hereunder the approximate number missed and update regularly as they are performed.

Date : _____

Salaah	Number outstanding
Fajr	_____
Zuhr	_____
Asr	_____
Maghrib	_____
Esha	_____
Wajib	_____

Compensation [Fidyah]

The executor needs to pay Fidyah for every outstanding Salaah.

The current amount needs to be verified with the Jamiat or other competent Darul Ifta.

Note that the amount paid may not exceed one third of the estate after payment of funeral expenses and debts & will therefore go unpaid unless paid personally by a well-wisher

Please update as Qaza Umri is performed

UNPAID ZAKAAH

Muslims are liable for Zakaah once he or she owns the Nisaab
[Minimum zakaatable wealth]

A calculation of unpaid Zakaah needs to be made, recorded and paid at the earliest possibility. If any amount remains unpaid, the executor must pay this from the one third of the estate after payment of funeral expenses and debts.

Record of unpaid Zakaah

[illegible]

UNPERFORMED HAJJ

Hajj is obligatory on every sane Muslim once all requisites are present.

If one has not performed the Hajj despite it being obligatory, one must repent and perform same at the first available opportunity.

Due to old age or sickness, with no hope of regaining health, a proxy may be arranged to perform this obligation. The proxy should preferably be from ones neighbourhood, but if funds do not permit, the proxy may be appointed from Saudi Arabia.

For the benefit of the executor/executrix, please note below whether the Hajj has become compulsory & if accomplished.

Date Hajj become Fardh

Date accomplished

UNPERFORMED QURBANI

One needs to determine which years' Qurbani remain outstanding, the price of the animal in each of those years and give away the total in Sadaqah.

Total of Qurbani obligation remaining unpaid =
R _____

This amount is to be updated as payments are made.

OUTSTANDING SAJDAH TILAWAT

This special Sajdah is to be performed at indicated points in the Qur'an following its recitation. Unperformed Sajdahs must be promptly redeemed. If any remains outstanding after death, any amount may be given in charity for each Sajdah.

Total number of outstanding Sajdah Tilawat = _____

UNKEPT FAST [SAUM]

A calculation needs to be made of all outstanding fasts including those missed due to legitimate reasons at the time e.g. due to illness, travel, menstruation or childbirth. These must then be redeemed at the earliest opportunity.

If however, one is still unable to fulfill this obligation due to frailty or protracted illness and there is no hope of regaining health, Fidyah needs to be paid. Information on these payments needs to be made available to the executor.

Date	Number of outstanding fasts

This number needs to be updated regularly

KAFFARAH FOR UNFULFILLED OATHS

Kaffarah [penalty] must be paid for breaking an oath.

An oath [*Yamin*] is where a permissible act is made compulsory e.g. a student promises to perform a certain number of Nafil Salaah on passing an exam; or a person takes an oath to abstain from a Halaal food.

The penalty for breaking an oath is to feed or clothe 10 poor people or if unable, to fast for 3 days.

Keep records of unfulfilled oaths & dates paid.

Number of Outstanding OATHS	Date fulfilled

UNPAID SADAQATUL FITR

A calculation of the outstanding amounts may be made as follows:-

- 1] Unpaid amount by your parents for you
- 2] Unpaid amount by you for yourself
- 3] Unpaid amount by you for your children

Total outstanding Sadaqatul Fitr = R _____

This amount is to be updated as payments are made.

RECORD OF AMAANAH [TRUST]

The following is a list of amaanah in my possession and their owners.

Items entrusted to me	From whom	Date received	Date returned

Other information that may help the executor/s or Heirs

RECORD OF LIABILITIES

As at [date]

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RECORD OF ASSETS

As at [date]

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1

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Pay your debts

The Messenger of Allah {Sallallahu Alayhi Wassallam} said: "a believer's soul remains suspended until all his debts are paid off." {Tirmidhi}

The Prophet {Sallallahu Alayhi Wassallam} did not perform funeral prayers for those who had died in debt. { Bukhari }