



In the name of Allah, The Beneficent, The Merciful

Trustees and executors for Wasiyah purposes – An Overview

This fatwa deals with the *sharī'ah* position on appointing trustees and executors for the purpose of distribution of inheritance (*wasiyyah*). It discusses the legal and practical situations of the following:

1. Appointing a non-Muslim as a trustee and executor
2. Payment for services of a trustee and executor
3. Absolute Discretion to convert to money

Regarding appointing a non-Muslim as a trustee or executor to the will, the *fatwā* explains that in the first instance, the expertise of a Muslim should be sought in the area. The Qadhi, thereafter, has the authority to appoint an upright Muslim as executor in place of a non-Muslim where the latter has been appointed prior to the Muslim legator's death.

As explained in the *fatwā*, where the matter is complicated, and there is no skilful Muslim practitioner to assist, seeking the assistance of a non-Muslim is allowed on the basis that the Islamic principles of wealth distribution is followed.

The *fatwā* clarifies that the appointment of a trustee in exchange for a fee is an *ijarah* contract that becomes invalid upon the death of the individual. However, circumstances are outlined where the agreed payment is considered a bequest and as such is paid proportionate to other bequests from one third of the value of the estate.

The *fatwā* concludes by examining the authority of the executor with regards to his/her absolute discretion to convert parts of the estate into money. The *fatwa* states that the executor will not require the permission of the heirs upon:

1. The absence of the inheritors
2. Delay/conflict regarding the repayment of debts or fulfilment of bequests.

However, the *fatwā* explains that in all circumstances, whether the express permission of the heirs is required or not, the movable property will be converted prior to the immovable property, and the property of minor heirs will always be converted first. The *fatwā* should be examined for a more thorough breakdown of individual circumstances.