

Your estate in safe hands

A will that meets the legal requirements ensures your loved ones will be taken care of once you're gone

DEATH comes when you least expect it. Take care of the financial well-being of your loved ones after you're gone by preparing a will. Not only will this protect some of your beneficiaries, such as minors or people with disabilities, it'll also ensure you determine who gets what following your death.

In this issue, we look at the importance of a will and how to report a deceased estate.

What is a will?

- A will is a document in which you set out what must happen to your assets and liabilities – called your estate – when you die.
- You as the testator or testatrix can compile your own will. However, wills that are more complicated should be drawn up by an expert such as an attorney or trust company.
- Once a will has been made, it can be changed or cancelled by the person who made it. Any changes must have your signature as the testator/testatrix as well as those of at least two witnesses. All persons should be present at the same time for signing. All signatures should be made as close as possible to the amendments.

Who can make a will?

- Anyone over the age of 16 can make a will as long as the person is not mentally ill, and understands the consequences of their actions.
- Two or more people, for example spouses, can make a joint will wherein they dispose of their separate estates.

Why should you have a will?

- Firstly, it allows you to decide who should inherit your estate. If you don't have a will, your assets will be awarded to your inter-state beneficiaries. These are usually your next of kin, but you might not want them to inherit everything.
- The second benefit of making a valid will is that you can stipulate who will be your executor – the person who'll administer your estate.



Once a month for the next two months we bring you important information from the Department of Justice and Constitutional Development that can make a difference in your life. Next time we'll look at the Guardian's Fund.

Who can assist you in drafting a will?

- Assistance in the drafting of a simple will can be obtained from attorneys, chartered accountants, boards of executors, banks, insurance companies, trust companies and various individuals who have the necessary qualifications.
- If you already have a will, it's important to revoke it in a later will – otherwise all the wills will be deemed valid and will have to be read together.

Matters to consider when drafting a will:

- Who will be your executor, the person who administers your will? Do you want to nominate more than one person?
- Are you married? If you're married in community of property, remember that your spouse owns half of the joint estate.
- Are any of your beneficiaries minors? In such a case the money would have to be paid into the Guardian's Fund until the minors reach 18 years of age.
- Do any of your beneficiaries need special



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GOOD TO KNOW

All magistrates courts have a section dealing with deceased estates of R50 000 or less.

protection? Are any of your beneficiaries disabled or mentally disabled? Will special needs need to be determined?

- What should happen if any one of your beneficiaries is insolvent at the time of your death? Beneficiaries who are insolvent cannot inherit monies from a deceased estate.
- What type of stipulation do you want to make, for example the creation of a trust?

Formal requirements:

- All wills must be in writing.
- You as the testator can sign your will personally, or ask someone to sign on your behalf. If someone signs on your behalf it must be done in the presence of a Commissioner of Oaths (a police officer, postmaster, bank manager or attorney).
- All wills must be signed as close as possible to the end of the wording to prevent anyone from adding words.
- If the will consists of more than one page, you as the testator must sign all the pages of the will.
- It must be signed in the presence of at least two competent witnesses. Each witness must sign all pages of the will and sign the last page of the will in the presence of each other and you as the testator.
- Beneficiaries or the testator's spouse may not be witnesses to the will.

How to report a deceased estate

Within 14 days of a testator's death, all wills,



whether they're valid or not, must be reported to the master of the high court in the area where the testator resided. There are 14 masters' offices:

Pretoria	Johannesburg
Mafikeng	Polokwane
Thohoyandou	Cape Town
Grahamstown	Port Elizabeth
Bhisho	Mthatha
Pietermaritzburg	Durban
Bloemfontein	Kimberley

You need the following documents:

- Original or certified copy of the death certificate
- Original or certified copy of the marriage certificate
- Original will
- Completed death notice
- Completed next-of-kin affidavit
- Completed inventory showing all the assets of the deceased

- Nominations by all the beneficiaries for the appointment of an executor and a certified copy of the executor's ID
- Declaration of existing marriages
- List of creditors

What happens next?

If the above documents have been completed correctly and lodged with the master:

- A file is opened in the name of the deceased
- The documentation is checked
- The will(s) is either accepted or rejected
- The master appoints an executor

Role of the executor:

- The executor must administer the estate in terms of either the will or, if there is no will, intestate succession.
- He/she has six months in which to lodge a full liquidation and distribution account with the master. ■

