

DO YOU HAVE A WILL?

THE IMPORTANCE OF A WILL AND THE PROCESS OF ADMINISTERING A DECEASED ESTATE AND GUARDIAN FUND.

The Master's Branch serves the public in respect of Deceased Estates, Liquidations (Insolvent Estates), Registration of Trusts, Tutors and Curators, as well as Administration of the Guardian's Fund (minors and mentally challenged persons). There are 14 Masters' offices throughout the country (one in each centre where there is a High Court) and all Magistrates offices have been designated as service points of the Masters, although the jurisdiction of these Service Points is limited to deceased estates worth R50 000 or less.



THE IMPORTANCE OF A WILL

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.

Why should you have a will?

It allows you to decide who should be the beneficiaries of your estate once you die. In your will, you can also appoint the person who will administer your estate.

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.

WHO CAN ASSIST YOU IN DRAFTING A WILL?

You can get assistance from attorneys, banks, chartered accountants, boards of executors, insurance companies, trust companies and various individuals who have the necessary qualifications.

Things to remember

- All wills must be in writing;
- You can sign your will personally or ask some to sign on your behalf and that must be done in the presence of a Commissioner of Oaths (a police officer, postmaster, bank manager or attorney) and
- Beneficiaries or the testator's (the person who made the will) spouse may not be witnesses to the will.

REPORTING A DECEASED ESTATE

WHAT IS A DECEASED ESTATE?

A deceased estate comes into existence when a person dies leaving property or a document which is a will or purports to be a will.

HOW TO REPORT A DECEASED ESTATE?

Within 14 days of a testator's death, all wills, whether they are valid or not, must be reported to the master of the high court in the area where the testator resided.

DOCUMENTS NEEDED

To report a deceased estate, you need to submit the following documents;

- Original or a 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 marriage
- List of creditors



WHAT HAPPENS NEXT?

Once the deceased estate's death has been reported, it takes no more than 15 days to get an appointment with the Master or representative of the Master's office.

WHAT HAPPENS WHEN YOU DIE WITHOUT A WILL?

If you die without a will, your estate will devolve in terms of the rules of intestate succession (your assets will, contrary to general belief, not go to the state). The rules will take into consideration many factors like whether the deceased was married in communion of property, how many children he/she had, or whether they have any surviving relatives.



GUARDIANS FUND [Administering funds for children and state patients (mentally disabled)]

PURPOSE OF A GUARDIANS FUND

The purpose of the Guardians Fund is to protect the funds of minors; persons lacking legal competence and capacity, known or unknown, absent and untraceable heirs, out of deceased estates and future maintenance.

FUNCTIONS OF A GUARDIANS FUND

- The Guardian's Fund administers money that has been received lawfully from sources such as National Treasury, Attorney Firms and Bank institutions. Cards are opened on the system for each and every beneficiary so that beneficiaries and guardians can claim the money without any hindrance.
- Guardian's Fund is the custodian of funds, ensuring that qualifying beneficiaries receive what is due to them with the interest generated.

- Creditors and untraced beneficiaries do not receive interest (only minors and State patients/mentally disabled are entitled to interest).
- From time to time, Guardian's Fund invests money to the Public Investment Commissioners (PIC). The interest generated from this investment will be paid to beneficiaries.
- Application by guardians to invest funds outside Guardian's Fund in a specific way will be considered if it is going to benefit the minor. This includes the investment of funds in immovable property.
- Money which remained unclaimed in the Guardian Fund for a period of 30 years as from the date, upon which the person became entitled to claim the money, is forfeited to the state.
- The master administer all the funds in the guardian's fund free of charge and no administration cost paid by account holders (beneficiaries).

PROCEDURE OF CLAIMING FROM THE GUARDIAN'S FUNDS

MINORS AND STATE PATIENTS (MENTALLY DISABLED)

Money in the Guardian's Fund can be claimed by the Guardian/tutor/curator/person caring for the minor until the minor reaches the age of maturity (or the age as determined in the will, if any).

As a guardian, you may claim monies for the needs of the minor child (under the age of 18 or disabled persons), with proof of the expenditure. This amount may not be more than R 100 000, until the minor is 18 years old or at the age stipulated in the will. Once the minor is of the right age, the monies left in the Guardian's Fund may be claimed by him or her.



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