

# THE IMPORTANCE OF MAKING A WILL – DON'T DELAY

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## 1. SOME THINGS CAN NEVER BE RECTIFIED

The thought of creating a Last Will and Testament tends to focus us on our mortality. Resultantly we are inclined to put this off to be attended to later. This often happens when there is a life-changing event, but sadly that can be too late. None of us knows what the future brings and aside from death. There could be a deterioration in mental ability due to a stroke, an accident or any other medical incident or condition.

## 2. A PROPERLY DRAFTED WILL BRINGS GREAT PEACE OF MIND

By making a Will you ensure that your assets are disposed of in accordance with your wishes after your death and, that your loved ones as well as those who cannot fend for themselves, are properly cared for and protected, when you are no longer there to do this for them. The process of making a Will is not a morbid or depressing task – on the contrary, knowing that your possessions will be distributed according to your wishes, that your affairs will be handled by someone you know and trust, and that your loved ones will be properly cared for when you are no longer there, brings great peace of mind!

## 3. WHY IS IT SO IMPORTANT FOR EVERYONE TO HAVE A WILL?

- 3.1 By making a Will you ensure that your assets are disposed of in accordance with your wishes. This privilege is called “freedom of testation”. It therefore allows you to decide what happens to your money and possessions after your death.
- 3.2 If you die without leaving a valid Will, your assets will be distributed according to the provisions of the Intestate Succession Act (in other words a set formula which may be far removed from your intentions) and you will have **no say**, whatsoever, in who will inherit your money and property.
- 3.3 Without a Will you cannot plan your estate, as a proper Will is an essential instrument in estate planning.
- 3.4 By not making a Will you will inevitably cause **difficulties for those you leave behind**, at a time which is already distressing for them.
- 3.5 By making a Will you will determine who will handle your affairs after your

- death. In other words you nominate the executor(s) who must be appointed.
- 3.6** By making a Will you can express **your preferences** for what happens after your death.
- 3.7** By making a Will you can **save on estate duty**.
- 3.8** If you're not married, but have a partner, and have not made a Will, **your partner may receive nothing**.
- 3.9** In a Will you can disinherit individuals who would otherwise stand to inherit.
- 3.10** In a Will you can set up testamentary trusts to care for minor beneficiaries or people with disabilities.
- 3.11** Not having a Will may also result in lengthy delays in the winding up of your affairs and can increase the costs thereof.
- 3.12** Your Will enables you to direct the proportions or specific items that each person is to receive. You may wish to make a bequest to your church or your favourite charity and you may wish to name beneficiaries who are not members of your family. All these intentions will be ignored if you have not set them out in the form of a Will.

#### **4. DRAFTING OF YOUR WILL AT NO COSTS TO YOURSELF AND ADMINISTRATION OF YOUR ESTATE AT A DISCOUNTED RATE.**

- 4.1** SAARP and its lawyers, Matthee Attorneys Incorporated, a firm of attorneys specialising in Wills, Estates and Conveyancing, have embarked on a project for SAARP members. They are offered professional services in respect of the drafting of a Will. There are no costs to themselves if SAARP and Matthee Attorneys are nominated as co-executors, as they share the costs for the drafting of the Will. This includes Estate planning and executor services for the administration of an estate at a discounted rate from 20% to 50% of the statutory tariff of 3.5% on gross assets plus VAT calculated on a sliding scale.
- 4.2** If you appoint Matthee Attorneys to draft your Will and nominate SAARP and Matthee Attorneys as the co-executors of your estate, we will attend and see to:
- 4.2.1** The professional and proper drafting of your Will at no cost to yourself to ensure that it reflects your last wishes correctly
- 4.2.2** The proper planning of your estate to ensure that:

- 4.2.2.1** During your life time your needs are met
- 4.2.2.2** You can enjoy your assets with peace of mind
- 4.2.2.3** Taxes are minimised
- 4.2.2.4** There is enough liquidity in your estate, and
- 4.2.2.5** Your last wishes as per your Will are fulfilled and your estate speedily administered without any unnecessary complications in the best interests of your heirs.
- 4.2.3** As we are conveyancers we will also attend to the transfer and registration of the immovable property of the estate to the heirs or the purchaser(s) thereof.
- 4.2.4** As we are a firm of practising attorneys of the High Court of South Africa, you are protected against the loss of trust money or damages as a result of negligence.
- 4.2.5** In almost all Wills the nominated executor(s) are exempted from having to lodge security. However if the executor is not a duly admitted attorney this may be required. In the event of security having to be furnished the costs thereof will usually come from the estate.
- 4.2.6** We administer estates everywhere in the country – because we are an incorporated company of duly admitted attorneys. We have offices, in every town where there are attorneys' offices because, as attorneys, we can appoint correspondent attorneys anywhere in the country to act on our behalf, and importantly, in accordance with our instructions. For instance, where we deem it necessary, we can send an attorney to attend to a matter or to meet with the relevant officials in the Master's office on our behalf. All of this is at no extra cost to the estate.
- 4.2.7** We, at SAARP and Matthee Attorneys, are passionate about rendering a professional service in respect of the planning of your estate and the drafting of your Will. Our aim is to give you peace of mind in the knowledge that your wishes will be fulfilled and your estate administered as seamlessly as possible and in the best interests of you, your loved ones and the people and/or organisations you care about. A properly drafted Will which gives effect to your wishes and meets all the legal requirements will ensure that your assets

are distributed according to your wishes and that your loved ones will be taken care of when you are no longer there.

## 5. REQUEST THE APPLICATION FORM FOR THE DRAFTING OF A WILL

Please do not delay. Request the Application form for the drafting of a Will by any of the following means:

- sending an e-mail to Paul Rosenbrock at [paul@saarp.net](mailto:paul@saarp.net),
- by phoning Paul or Anne at SAARP Telephone Number 021 592 1279
- by faxing a request to SAARP on Fax Number 021 592 1284,
- by requesting such a form on the SAARP website – [www.saarp.net](http://www.saarp.net)

*Piet Matthee*

**NEXT ISSUE: PROVISION FOR THE SITUATION OF MENTAL INCAPACITY** It is also vitally important to make provision for a situation in which you do not pass away, but as a result of a stroke, an accident, or other serious medical incident or condition like Alzheimer's disease or dementia, become mentally incapable of properly attending to your own affairs and those of your loved ones who are dependent upon you, and with whom you will reside for many years to come.

