

The pandemic emphasises the importance of a last will and testament

In 2019, even before the virus took hold, the Master of the High Court who is there to serve the public in respect of deceased estates, liquidations (insolvent estates), registration of trusts and administration of the guardian's fund, estimated that more than 70% of South Africans do not have a will. This means that they are likely to be leaving their affairs in disarray for their grieving families to make sense of.



Source: zimmytws – 123RF.com

According to Jeffrey Wiseman, CEO of Momentum Trust, this is a national tragedy and can be largely attributed to the fact that nobody likes to think or talk about death. “While one can never be completely prepared for it, we can certainly put the right measures in place so that when the time comes, our families and loved ones are able to cope financially.”

Wiseman also sites a lack of basic financial literacy and limited access to a professional who can assist with drawing up a legally binding will as other contributors.

“The death of a loved one is a traumatic and emotional time for all involved. The reality of finding out that the terms of the will cannot come into effect, adds to the significant trauma the family is already going through,” says Wiseman.

Wiseman provides some essential tips to remember when drafting your final will and testament:

There are platforms online where you can draft a legally binding will for free

Momentum Trust has partnered with a leading will software provider, Arken.legal, to make available to the public an online will generation service for all South Africans.

According to Wiseman, with the use of this system, drafting a simple, legally binding will is well within the capabilities of most people.

“With our online will system, you are able to obtain a high quality will at no charge. You’ll be able to clearly state who will inherit your assets when you pass away, avoiding any conflict or confusion when you can no longer speak for yourself. Once properly signed, this will is legally binding in South Africa.”

Witnesses are crucial when signing

“When you are signing your will, it is crucial to ensure that you have at least two competent witnesses present when you sign the document,” says Wiseman.

He advises that the witnesses should not stand to benefit in terms of the will. In such an instance, the witness stands to be disqualified from inheriting in terms of the will.

Appoint a qualified executor

According to Wiseman, it may seem like a great idea to appoint a family member or friend as the executor of your estate but, unless this person is knowledgeable about the administration of deceased estates, it is likely that they will have to appoint an expert to assist them with this process in any event. Nominating a qualified executor can minimise any delays in the administration of your estate and ensure that your loved ones receive their inheritances as you always intended, smoothly and efficiently.

“There are many cases we find that clients think their loved ones will automatically understand the complexities of administering a deceased estate, but that is not always the case and can lead to tragic results for a grieving family.”

What do you need to include in your will?

Wiseman says that a person’s will should align with that person’s particular financial situation and personal circumstances. However, he says there is a standard list of items that should always feature in a will. These include:

- A named executor who will be given authority by the Master of the High Court to administer your estate and distribute your assets in accordance with your will;
- Beneficiaries – such as a person, charity or an organisation that can inherit specific assets;
- Clear and unambiguous instructions regarding the distribution of your estate to avoid tension and conflict at a time of great sadness;
- Persons that you wish to be appointed as guardians of your children;
- Serious consideration of whether a testamentary trust is needed to protect the inheritances of minor children; and
- Funeral wishes and burial proceedings if you have them.

Wiseman says people need to consider the legacy they leave behind should the worst happen.

“A will that is up to date and safely stored with your family being informed of its location is crucial. There is plenty of advice

out there and support to help get your will in place. Don't let your family pay the price," concludes Wiseman.

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