

WHAT IS A WILL?

A Will is a legal document that sets forth your wishes regarding the distribution of your assets and property and the care of your dependents in the event of your death and ensures that your estate is not administered within the punitive constricts of the Intestate Succession Act.

KEY BENEFITS OF A WILL

- ◆ It ensures that your assets are distributed according to your wishes.
- ◆ It ensures the protection of beneficiaries' rights to inherit.
- ◆ It ensures that your assets are safeguarded.
- ◆ It ensures that your wishes on death are complied with.
- ◆ It enables you to impose special conditions on any bequests.
- ◆ It ensures the efficient and cost effective administration of your estate.

KEY IMPLICATIONS (*CONSEQUENCES*) OF NOT HAVING A WILL

- ◆ The Master of the High Court will appoint an executor of his choice.
- ◆ Assets are distributed according to the law of intestate succession, which may prejudice your dependents.
- ◆ Any minor or incapacitated beneficiary's inheritance will be placed under state control and will be administered within the Guardian's Fund.

CONSIDERATIONS WHEN DRAFTING A WILL

- ◆ Who should benefit from the distribution of your assets and have you made adequate provision for dependents?
- ◆ Have you made provision for alternative beneficiaries where one or more of your nominated beneficiaries has predeceased you?
- ◆ Have you made provision for a trust to ensure the protection of assets for minor or incapacitated beneficiaries?
- ◆ Have you ensured the protection of your beneficiaries' inheritance against their personal marital regime?
- ◆ Have you ensured that your beneficiaries have the ability to create a company or trust to accept the ownership of assets that they wish to own jointly?
- ◆ Have you nominated a guardian for minor beneficiaries in the event that no natural guardian exists at the time of your death?

SIGNING A WILL

- ◆ The Will must be signed in full on every page by the testator and / or testatrix.
- ◆ Your Will must be signed in the presence of two completely impartial and unrelated witnesses and their details should be recorded in the Will.
- ◆ Any person set to receive any benefit under a Will, including any beneficiary or alternate beneficiary, executor, trustee or guardian could be disqualified from receiving the specified benefit or from holding office in the event that they are a witness.
- ◆ A witness must be at least 14 years old and must be competent to sign as a witness.
- ◆ Any deletion, addition, alteration or interlineation must be validated with signatures of the testator and / or testatrix and two witnesses.
- ◆ Only an original Will can be registered with the Master of the High Court.

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