



Financial **PROTECTION**

Last Will and Testament



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Words and meanings ●

Will

It is also known as a testament. A Will is a legal document in which you indicate what should happen to your money and property when you die. In other words, a Will gives you a say, even after your death, as to how your estate should be distributed or who should benefit from it.

Testate

A person who has died and has left a valid Will behind.

Testator

The owner of a testament or a Will (still living).

Estate

After someone dies, all the money, property, other assets and debt that they have left behind is call their estate.

Executor of the estate

The person who is responsible for keeping the estate safe until the assets or monies can be properly allocated to the people listed in the Will.

Liabilities

A liability is a person's / company's financial debts, for example a car you are paying off is a liability.

Who needs a Will? •

A Will is not only for people that are rich.

So, who needs a Will?

If you...

- Are above 16
- Are married
- Have a life partner
- Have dependants
- Have extended family
- Have life policies / investments
- Are passionate about a particular cause like a charity



The risk of not having a Will? ●

If you do not have a Will there is the Law of Interstate Succession that will decide on who will inherit what from your estate. The master of the high court will appoint a curator to take care of the property and a Guardian to take care of your minor children.

How will your estate be distributed if you do not have a Will:

- **Primarily the marriage partner**
 - a. This will depend on the type of marriage agreement.
 - i. Community of property - the marriage partner is legally owed half of the deceased estate including debt.
 - ii. Pre-marriage agreement without interest - the surviving marriage partner may not inherit unless specifically named in the Will.
 - iii. Pre-marriage agreement with interest - the property and belongings of a person before the marriage was entered into is not part of the joint estate and the owner of the Will gives it to anyone he/she pleases and children of the deceased.





- **If a parent of underage children dies** without a Will, and the other parent is unable to provide care, the government will have the power to determine who will become the guardian of the children and the property/money they will inherit.
- **If there is no marriage partner or children**, the surviving parent(s) will benefit.
- **If the parents are deceased**, the closest blood relatives will benefit, provided that they are named specifically in the Will and they were not involved in the death of the predeceased.
- **If no surviving blood relatives are found**, the estate will be sold and the final amount is paid into the Guardians' Fund.

A Guardians' Fund is a fund created to hold and manage money which is paid to the Master of the High Court on behalf of various people, for example, underage children, persons incapable of managing their own affairs, unborn heirs, missing or absent peoples or people that have an interest in the money of a person who has died without a Will.

- **If the money is not claimed** by a person to whom it's owed within 30 years, then the money is claimed by the government.



What to think about when you write your Will ●

Keep this in mind...

It is important to use a professional to draft your Will.

A Financial Advisor can assist you in drafting up your Will. You can also find assistance at your local bank.

Please note that some advisors and banks /lawyers charge a fee to draft your Will and /or keep a copy safe on your behalf. A once off cost to draft, and a once a year cost to archive may be applicable.

You can find a list of authorised financial advisors on the FSCA website.

- Who do you want to manage your Will – who do you trust?
- What do you have to leave behind?
- Who do you need to leave something for?
- What about your children? Ensure that you appoint a guardian in respect of minor children.
- A male in a polygamous marriage must indicate if the money is left to his first wife or all his wives. If this is not stipulated then the estate will be broken down into percentages between all the wives.
- If you are married, a husband and wife may have a joint Will.
- It is important to have a line of successors listed in your Will. In the event that the first one has passed on, you nominate the second successor.
- You can leave your money in a trust for young children, to which guardians will apply for the release of funds for the child's needs.

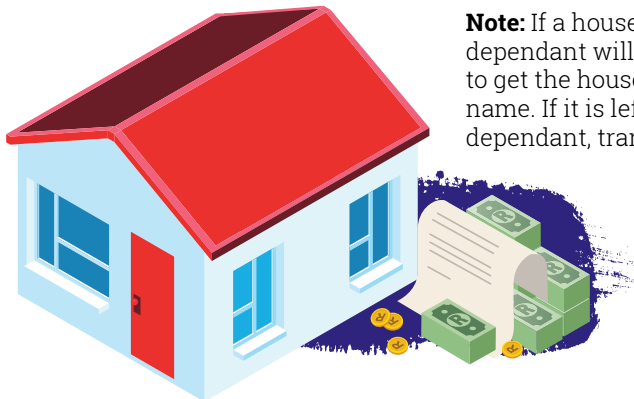
It can take 1-3 years, if not longer, to wind up an estate.



Details that need to be included in a Will ●

Before writing your Will, you will need to have specific information:

- A list of everything you **own**, related debt and how much you still owe on this debt.
- **Investments and bank accounts** need to be listed should they be left to someone.
- Leaving property to more than one person, although completely possible, could cause **possible problems** when it comes to the estate of that person. If an individual owns immovable property outside of the country, it is important to consider the possible need for a **foreign Will** (depending on the laws on the division of land in that foreign country).
- The most important thing to be thought about in the case of property is the case of farms. **A farm (any property over 18 hectares)** may only be owned in one person/legal body's name. If you would like to leave a farm to more than one person, it must be inherited by a **company**, whose equal partnered owners are the two or more people that stand to inherit. If the original owner of the farm does not set this up in their Will, the only solution is to enter into a buyout situation or have the manager of the estate sell the property to the company. If this is the case, a **heavy tax** may be deducted. Any number of people can own residential or commercial property under 18 hectares. Use the services of a lawyer who specialises in the transfer of immovable property. This will ensure that all requirements regarding the legal transfer to the owners are met.
- Property must be described using the **correct address** as it is on the title deed. The Deeds Registrar will have a description of the property to be transferred to the new owner.



Note: If a house is left to a dependant, the dependant will need to pay transfer costs to get the house registered in their own name. If it is left to someone who is not a dependant, transfer costs are still payable.

Updating your Last Will and Testament ●

Whenever there are any major changes, your last Will and testament should be top of mind.

These include:

- A marriage
- The birth of a child
- Divorce
- Purchasing or sale of new assets such as property
- Death of a beneficiary or executor





Last Will and Testament - Template ●

Last Will and Testament

I, the undersigned, (full names) _____
(Identity number) _____
of (residential address) _____

I hereby declare this to be my Last Will and Testament. I hereby revoke all previous Wills, or testamentary writings made by me.

I nominate (full name) _____
address _____
of (residential address) _____

to be the Executor of my Estate. Should he/she be unwilling or unable to act
as executor, I nominate (full name) _____
address _____

I direct that the executor of my estate shall/shall not be required by the Master of the High Court or other competent authority to give security for proper performance of his duties.

Signed by TESTATOR: _____

WITNESS 1. _____

WITNESS 2. _____



I direct that my estate shall devolve as follows:

Special Bequests: _____

After my special bequests I bequeath the residue of my Estate to:

EXAMPLE

In witness whereof I have signed this Will in (place) _____

on the _____ (day) of _____ (month) _____ (year) in the presence of the undersigned witnesses who in my presence and in the presence of each other have signed this Will as witnesses.

Testator Signature: _____

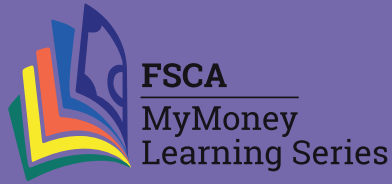
Date: _____

Notes •

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Notes •

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Last Will and Testament



The purpose of this booklet is help you to provide you with the important information that you need to know about the requirements and factors to consider when it comes to writing your Last Will and Testament.



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