

DO YOU HAVE A **WILL**?

How a *will*, intestate succession and your beneficiary nomination form intersect.

S I M E K A

member of  Sanlam group

Regardless of how much or little money or possessions you have acquired throughout your life. You will need a last *will* and testament to ensure that your belongings are left to the people you intend it to go to after your death.

Why have a *will*?

1. So that your **belongings are distributed according to your wishes**.
2. So that your **loved ones are provided for** after your death.
3. To **minimise conflict** among family members.
4. To avoid unnecessary **administrative costs**.



It's National Wills Week

The week of **17-21 September 2018** is *National Wills Week* and the Law Society of SA has arranged participating attorneys to draft basic *wills* free of charge.

Click [here](#) to locate a participating attorney closest to you.

Did you know?

A *will* is essentially a contract you enter into with the person (executor) whom you wish to take charge of dealing with your estate when you die. Your estate includes all your assets and liabilities. The *will* must meet certain legal requirements related to signing and witnessing the *will*.

What happens if you do not have a valid *will* in place?

If you do not have a valid *will* the assets in your estate will be distributed in accordance with the *Intestate Succession Act 81 of 1987*. This means you will die intestate which could result in your possessions not being distributed according to our wishes.

For example, if you die intestate and you wanted to leave some of your possessions to family members other than your spouse, e.g. your parents or siblings, the intestate law when applied, will mean that they will not inherit anything.

Summary of the law of intestate succession ...

- **Surviving spouse and descendants**
If there are no descendants (i.e. children or grandchildren), the spouse will inherit the entire estate.
- **Parents**
In the absence of a spouse, or descendants, each parent will receive one half of the intestate estate.
- **Siblings, and descendants of siblings, where parents are not alive**
The descendants of each parent will inherit the parent's half and where there are only descendants of one parent, such descendants will inherit the entire estate.
- **Other close relatives**
Where the deceased is not survived by a spouse, descendant, parent, sibling or descendants of a sibling, the intestate estate will be divided among such other blood relatives of the deceased.

What documents do you need when drafting a will?



- The name and ID number of your proposed executor.
- A copy of your spouse's ID document and a copy of your marriage certificate and/or divorce decree and settlement agreement if divorced.
- Full names and ID numbers of your children including adopted, step- and grandchildren you wish to benefit from your will.
- The name and contact details of a proposed guardian if you have minor children.
- Copies of title deeds of properties in South Africa or mortgage bonds thereof.
- Copies of any endowment and insurance policies as well as your investments.
- Details of any other party or institution you wish to benefit.

What about your retirement fund death benefit?



Not all of your assets are governed by your will. In the event of your death, your retirement fund death benefit does not form part of your estate, as it is governed by section 37C of the *Pension Funds Act of 1956*. It is therefore equally important to keep your beneficiary nomination form up to date.

In terms of section 37C of the *Pension Funds Act*, the retirement fund board of trustees have full discretion on deciding how to distribute your retirement fund death benefit. However, they do have a duty to identify who your dependants are and they also need to consider your wishes before exercising their discretion.

It is therefore essential that you keep this form up to date, as it is an indication of who your dependants are and how you would like your benefit to be distributed. You are encouraged to list all of your legal and financial dependants, as well as any persons you would like to nominate as beneficiaries. If you have any minor dependants, it would be helpful to state whether your benefit should be paid to a guardian or caregiver, or to a beneficiary fund.

A **nomination beneficiary form** is an expression of your wishes on which you indicate who you wish your retirement fund death benefit must be paid to in the event of your death while still in service of your employer.

What if you do not have any dependants?



You should still complete a beneficiary form and nominate someone who your benefits should be paid to. If you do not do so, your benefit will be paid to your estate. This will incur executor's fees, which would ordinarily not apply to a payment made directly to a nominee. It should be noted that the trustees are bound by law to settle any shortfall in your estate before paying your nominee/s.

What are executor's fees?

An amount payable to the executor of an estate for rendering services in winding up the estate.

As vital as it is to have a valid will and a beneficiary nomination form you should always make sure that you keep them up to date, especially when going through a life-changing event, e.g. getting married, having or adopting a baby or when getting divorced.

Having a valid will in place together with an updated nomination of beneficiary form will go a long way in ensuring that your possessions are distributed in the way you intended. You then leave your loved ones with greater financial peace of mind.

Solutions for
Retirement | Actuarial | Investments | Health | Wealth

Cape Town
Durban
Pretoria
Sandton

Tel: +27 (0) 21 912 3300
Tel: +27 (0) 31 566 2302
Tel: +27 (0) 12 369 8800
Tel: +27 (0) 11 263 4300

Simeka House, The Vineyards Office Estate, 99 Jip De Jager Drive, Bellville, 7530
1st Floor, Northwing, 2 Cranbrook Crescent, Douglas Saunders Drive, La Lucia Ridge, 4051
3rd Floor, Podium at Menlyn, 43 Ingersol Road, Cnr Lois and Atterbury, Menlyn, 0181
Building 2, 11 Alice Lane, Sandton 2196

www.simekaconsult.co.za

info@simekaconsult.co.za

