

# DO YOU HAVE A WILL?

The Master's Office in the Department of Justice and Constitutional Development provides services in respect of:

- Deceased estates
- Liquidations (insolvent estates)
- Registration of trusts, tutors and curators
- Administration of the Guardian's Fund (minors and mentally challenged persons).

## THE IMPORTANCE OF A WILL

### WHAT IS A WILL?

A will is a document in which you set out what must happen to your assets and liabilities – called your estate – when you die.

### WHY SHOULD YOU HAVE A WILL?

It allows you to decide who should be the beneficiaries of your estate once you die. In your will, you can also appoint the person who will administer your estate.

### WHO CAN MAKE A WILL?

Anyone over the age of 16 can make a will as long as the person is not mentally ill, and understands the consequences of their actions. Two or more people, for example spouses, can make a joint will wherein they dispose of their separate estates.

### WHO CAN ASSIST YOU IN DRAFTING A WILL?

You can get assistance from attorneys, banks, chartered accountants, boards of executors, insurance companies, trust companies and various individuals who have the necessary qualifications.

## REPORTING A DECEASED ESTATE

### WHAT IS A DECEASED ESTATE?

A deceased estate comes into existence when a person dies leaving assets or a document which is a will or purports to be a will.

### HOW TO REPORT A DECEASED ESTATE?

Within 14 days of a testator's death, all estates, where there are assets or a will must be reported to the Master of the High Court in the area where the testator resided. All wills, or document purporting to be wills, whether they are valid or not, must be lodged as well.

### DOCUMENTS NEEDED

To report a deceased estate, you need to submit the following documents:

- Original or a certified copy of the death certificate.
- Original or certified copy of the marriage certificate / decree of divorce (if any).
- Original will.
- Completed death notice.
- Completed next-of-kin affidavit.
- Completed inventory showing all the assets of the deceased.
- Nominations by all the beneficiaries for the appointment of an executor and a certified copy of the executor's ID.
- Declaration of existing marriage.
- List of creditors.
- Acceptance of trust as executor / Master's Representative (in duplicate) together with a certified copy of the ID of such applicant.

### THINGS TO REMEMBER

All wills must be in writing.

You can sign your will personally or ask someone to sign on your behalf but that must be done in the presence of a Commissioner of Oaths.

Signing as a witness disqualifies you from receiving any benefit out of the will, including being appointed as executor.

**Master's Offices can be found at all high courts and magistrates courts. However, at magistrates courts, the jurisdiction of the Master's Office is limited to deceased estates worth R150 000 or less.**



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Justice and Constitutional Development  
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## WHAT HAPPENS NEXT?

Once the deceased estate has been reported, it takes approximately 15 working days for the Master to issue the Letter of Appointment for the Executor (in estates that has a value of R250 000 or more) or Master's Representative (in estates less than R250 000) in value.

## WHAT HAPPENS WHEN YOU DIE WITHOUT A WILL?

If you die without a will, your estate will devolve in terms of the rules of intestate succession. Your assets will, not go to the State. The rules will take into consideration factors like whether the deceased was married in community of property, how many children he/she had, or whether they have any surviving relatives.

## THE GUARDIAN'S FUND

The purpose of the Guardian's Fund is to protect the funds of minors; persons lacking legal competence and capacity, known or unknown, absent and untraceable heirs out of deceased estates or any other fund received through a governing Act or Court Order.

## FUNCTIONS OF A THE GUARDIAN'S FUND

- The Guardian's Fund administers money that has been received lawfully from sources such as National Treasury, attorneys and banks.
- The Guardian's Fund is the custodian of funds, ensuring that qualifying beneficiaries receive what is due to them with the interest generated.
- Money which remains unclaimed in the Guardian's Fund for a period of 30 years from the date upon which the person became entitled to claim the money, is forfeited to the State.
- The Master administers all the funds in the Guardian's Fund free of charge.

## PROCEDURE OF CLAIMING FROM THE GUARDIAN'S FUNDS

Claims on behalf of minors and State patients (mentally disabled) in the Guardian's Fund can be made by the guardian/ tutor/ curator/person caring for the minor until the minor reaches the age of maturity (or the age as determined in the will, if any).



For more information: go to [www.justice.gov.za](http://www.justice.gov.za) / follow us on [@DOJCD\\_ZA](#) [f](#) at DOJCD and on [i](#) at DOJCD