

Stowell & Co



ATTORNEYS, NOTARIES PUBLIC AND CONVEYANCERS

THE IMPORTANCE OF HAVING A WILL

THE IMPORTANCE OF HAVING AN UP-TO-DATE VALID WILL CAN NEVER BE OVER EMPHASISED, AND THIS IS PARTICULARLY IMPORTANT WHERE THE TESTATOR HAS AN ESTATE INCLUDING IMMOVABLE PROPERTY.

An Executor of your choice is nominated in the Will, which leads to the speedy appointment of the Executor and hastens the administration of the Estate.

The Beneficiaries of your Estate are nominated by you in your Will, which ensures that your Assets are distributed in accordance with your wishes.

A Testamentary Trust can be created for the benefit of your **minor children** which **safe-guards their Inheritances** and also ensures that their Inheritances are not paid into the Guardian's Fund and is not administered by the Master of the High Court.

Your Testamentary Trust also **protects your beneficiaries** whom you believe are **not in a position to administer their own financial affairs**. In addition you can stipulate the age at which your children receive any inheritance due to them. If this is not done your minor child will receive his Inheritance when he turns 18, being the new age of majority created in terms of the Age of Majority Act.

You will nominate Trustees of your choice to administer the Trust which will ensure that the Assets of the Trust are safe-guarded and that effective Investments are made.

Where a person dies without leaving a Will, the intestate beneficiaries have to nominate an Executor and if agreement cannot be reached inter-family relationships can be affected.

The nomination process in addition delays the reporting of the Estate to the Master and the ultimate appointment of an Executor by the Master. This as a consequence delays the payment of Insurance Policies where no beneficiaries are nominated and also the repayment of debts such as Mortgage Bonds, Overdraft Facilities, Installment Sale Agreements and Credit Card Debts. Interest will continue to run on these debts and the servicing of these debts will be suspended.

Where there is no Will and the deceased has no spouse, major child, or parent available to accept the appointment as Executor, the Master of the High Court will require a **Bond of Security from an Insurance Company** to cover the Executor's administration obligations. This will delay the appointment of the Executor until the Bond is obtained, and the Estate will in addition have to pay insurance premiums in respect of same.

The effect of dying without a Will, will mean that the Estate is distributed in terms of the Intestate Succession Act in terms of which a spouse married out of Community of Property, who has children, can expect to inherit a mere R125,000.00 or a child's share of the Estate whichever is the greater. The balance of the Estate including all properties owned by the deceased, will be inherited by the children and if they are minors, their Inheritances will be paid into the Guardian's Fund which as stated above will be administered by the Master of the High Court. This can have a disastrous effect on the finances of the surviving spouse and ultimately the children.

Where the parties are married in Community of Property, the spouse will receive half the estate plus a child's share or R125,000.00 whichever is the greater, on intestacy.

You should accordingly ensure that you have a professionally drafted Will appointing an Executor and Trustee of your choice to ensure the proper administration of your Estate.

We would be glad to be of assistance to you in drafting your Will.

If you require assistance kindly contact **JOHN MICHAU** or **RONEL DE KLERK** on **033 – 845 0500**.