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January 2015

Welcome to the **FIRST** edition of our newsletter regarding **WILLS AND ESTATE PLANNING**.

In this first edition we will be dealing with the **IMPORTANCE OF A VALID WILL**.

If you do not have a **VALID WILL** you might as well not have a will at all!

The ongoing theme of this newsletter is the necessity of obtaining professional advice regarding your estate affairs.

Please feel free to contact us to ensure that you do not die without a valid will!!

You are more than welcome to share this newsletter with your family, friends and colleagues as it is imperative for every adult to have a valid will.

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Yours faithfully,

A.G. VAN BRAKEL
A.G. VAN BRAKEL & ASSOCIATES INC.

THE IMPORTANCE OF A VALID WILL

A VALID WILL IS PROBABLY ONE OF THE MOST IMPORTANT PERSONAL DOCUMENTS THAT ANY ADULT SHOULD POSSESS.

IT IS ESTIMATED THAT MORE THAN 50% OF PEOPLE DIE ANNUALLY WITHOUT A VALID WILL.

THIS CAUSES INCREDIBLE HEARTACHE AND FRUSTRATION FOR THE NEXT OF KIN WHO HAVE TO TRY AND SORT OUT THE ESTATE.

FINALISING AN INTESTATE ESTATE CAN ALSO BE CONSIDERABLY MORE EXPENSIVE THAN A TESTATE ESTATE.

DEPENDING ON THE SIZE, FINALISING AN INTESTATE ESTATE CAN TAKE UP TO TWO YEARS LONGER TO FINALISE THAN A TESTATE ESTATE. THIS CAUSES DIFFICULTIES FOR NEXT-OF-KIN AND CHILDREN IN OBTAINING INTERIM FUNDS FROM THE ESTATE.

‘Under current legislation a person is entitled to deal with his/her assets as they deem fit, **PROVIDED THAT THIS IS STIPULATED IN A VALID WILL.**

In the event of your death with a valid will, this is referred to as a **TESTATE** death and your assets are dealt with as stipulated in your will.

Should you pass away **WITHOUT A VALID WILL**, this is referred to as an **INTESTATE** death and your assets are then dealt with in accordance with the **INTESTATE INHERITANCE RIGHT**. Your assets are **not** dealt with in accordance with your wishes and there is a very strong likelihood that your assets will be inherited by people you did not want to or did not even know!



CONSEQUENCES / DISADVANTAGES OF DYING WITHOUT A WILL

A. INTESTATE INHERITANCE

- Legislation stipulates complex formulae to determine who will inherit your assets.

B. APPOINTMENT OF AN EXECUTOR

- You have no say in the appointment of an Executor of your estate.
- Intestate beneficiaries have to appoint an Executor who would probably have to provide the Master with guarantees. If no agreement can be reached between the intestate beneficiaries, the Master will appoint an Executor.
- Your Estate cannot be processed until the Master has appointed an Executor which can prolong matters by a number of months.
- Refunds of insurance policies are delayed where no beneficiaries have been nominated. This also results in delayed payments of mortgage bonds, overdrawn bank accounts, vehicle finance agreements and any other interest bearing debts.

C. BENEFICIARIES

- You forfeit your right to nominate beneficiaries if you do not have a valid will.

D. TESTAMENTARY TRUST

- Bequests cannot be made to minor children through a testamentary trust and there is a distinct possibility that the inheritance of minor children will be paid over to the Master of the Supreme Court (Guardianship Fund) and retained by them until the children become majors – **DEFINITELY NOT A SITUATION TO PLACE YOUR CHILDREN IN!**

E. ESTATE DUTY

- Due to the fact that no estate planning was done to ensure maximum utilisation of permissible benefits, avoidable Estate Duty could be payable!

F. LIVING TOGETHER RELATIONSHIPS

- There is a definite possibility that your life partner will inherit **NOTHING** if you do not have a valid will, even if it was your intention that they should inherit.

G. MINOR CHILDREN

- The Court will appoint guardians for your minor children if you were a single parent. There is a distinct possibility that your children will be assigned to guardians that you did not want. **They can even be sent to an orphanage!**



WHAT IS A VALID WILL?

- You must be of sound mind and over the age of 16.
- You must sign in full at the bottom of each page.
- Two qualified witnesses must also sign **IN YOUR PRESENCE** at the bottom of each page.
- It is important to note that the witnesses must be over the age of 14 and that they, or their immediate family, must not benefit either **DIRECTLY OR INDIRECTLY**, from your will. The Executors and / or Trustees of a testamentary Trust may also not sign as witnesses.
- Should you make any changes to your Will, this must be signed in full by yourself and the witnesses, in the presence of each other.



ADVANTAGES OF A VALID WILL

- Prevents the intestate inheritance right being applied to your estate.
- You have the right to nominate your own heirs as you think fit.
- You can prescribe who inherits your assets and stipulate conditions of inheritance.
- You can nominate Executors and Trustees to manage your affairs according to your wishes in the event of your death.
- You can implement precautionary measures in order to protect the inheritance of your beneficiaries.
- You can avoid extended and costly court cases and ensure that your estate is finalised speedily.



MATTERS TO BE STIPULATED IN A VALID WILL

How to deal with the :

- Foreign assets which may have to be dealt with in a foreign will.
- Funeral arrangements – remember to discuss this beforehand with your next-of-kin.
- Maintenance commitments to a previous spouse or children from a previous marriage.
- Nomination of an alternative heir in the event that the nominated person / institution is no longer alive / no longer exists after your death.
- Management of your shares and other business affairs.
- Equal apportionment of your fixed assets that do not have equal value between your heirs.
- Setup of a testamentary Trust for minor heirs.
- Stipulation of the age when minor heirs can inherit from the testamentary Trust, e.g. when they turn 25.
- Appointment of guardians for minor children.



CONTACT US TODAY FOR A CONSULTATION IN ORDER TO ENSURE THAT YOU HAVE A VALID WILL.

YOU OWE IT TO YOUR FAMILY TO ENSURE THAT THEY DO NOT SUFFER ADDITIONAL TRAUMA DUE TO POOR ADMINISTRATION SUBSEQUENT TO YOUR DEATH.



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