

If you die without a will . . .

If you don't get around to drawing up a will before you die, or if you leave a will that is invalid in terms of the law, you die intestate and certain legal rules come into effect which dictate who will benefit from your estate.

"In most instances, the surviving spouse will be the beneficiary or the surviving spouse and the children will be beneficiaries, depending on the size of the estate," says Temba.

If you do not have a spouse or children, your parents or brothers and sisters will benefit. If these people are not alive, then your nearest blood relatives (cousins, etc) will benefit.

If you are not survived by any blood relatives, and you own a property, it will be put into a state fund. If the property goes unclaimed for 30 years, it then goes to the state.

You may have wanted to leave it to

your partner of 10 years or her daughter – not to your parents or siblings – but without a will they will lose everything.

Even if you have lived with your partner for most of your life, if you are not related to them they will not inherit from you if you die without a will.

Not having a will could also mean that everything you own – your house, car and furniture – could be sold in order to divide the assets.

10 TIPS ON DRAWING UP A WILL

1 Identify yourself properly, using your full name, maiden name (if you are a married or divorced woman), date of birth and ID number.

2 Sign your name on every single page.

3 Use clear, exact language when writing your will.

4 Get two witnesses over the age of 14 to sign the will at the end of the document on the last page. They can't be beneficiaries.

5 Date the will. This is very important.

6 Name the executor in the will (the person who will be dealing with your estate when you die).

7 If you have a previous will, add a clause cancelling it. And remember to destroy it.

8 Indicate who gets what, being precise with your property and belongings – leave nothing out. When stating your beneficiaries, use their full names, date of birth, ID number and their relationship to you.

9 Name secondary beneficiaries in case the first beneficiaries die before you.

10 Appoint a guardian for all minor children if there is no direct family to act as guardian if you die.

10 PER CENT

of South Africans have a will, according to the Fiduciary Institute of South Africa (FISA)

AFRICAN LAW AND WILLS

What happens if a black person dies without a will? By law, either the law governing estates of people who die intestate (without a will) comes into effect or the rules of the African customary law of succession will apply, Temba says. The latter depends on whether the deceased was married according to civil law or customary law.

In terms of African customary law, a male relative (usually the eldest son) of the deceased will inherit his estate. If the eldest son is deceased, his eldest son will inherit, and if that eldest son is dead, then the second eldest son inherits. If there are no sons, then the deceased's father will inherit, if he is still alive. If not, the brothers and then the uncles of the deceased will inherit.

If there are no living male relatives, the chief of that nation or the state inherits the property and belongings of the deceased.

If a single woman dies, her father inherits, and if she is married, her husband and children inherit.

HOW TO UPDATE YOUR WILL

It's important to review your will every so often, especially when there are changes in your personal circumstances – for example, when you get married, have a baby or buy property. Here's how to go about it:

- * The easiest way is to cancel your old will and draw up a new one, making sure to destroy the old will.
- * If you don't make a new will but make

changes on your existing will by writing them on the will, you and two witnesses must sign next to the changes. If you don't, your will will be read without the changes.

WHERE TO GET HELP

Although you are legally allowed to draw up your own will, it is to your advantage to seek the help of a professional person, whom you trust, and who works with wills.

- * Contact a lawyer who specialises in deceased estates.
- * Speak to an insurance broker.
- * If you can't afford professional legal fees then contact the Legal Aid Advice Line on 0861-053-425.
- * Contact your bank. Most banks will help you draw up your will free of charge or at a minimal cost, depending on what you want.