



Ways to a will

Although not perfect, an online will is a better proposition than dying intestate.

MORE THAN 70 PERCENT OF SOUTH AFRICANS die without having drawn up a valid will.

In these circumstances, your worldly possessions are distributed to your heirs in terms of the Intestate Succession Act, which provides for your estate to be passed on to your spouse, your spouse and children in equal shares, your parents or your siblings, depending on the composition of your family. If you do not want these family members to inherit from you, this is the first good reason to write a will.

But there are other good reasons, one of which is that you can appoint an executor for your estate who you trust, and you can state that the executor does not have to provide security for the assets in your estate. If you die intestate with an estate worth more than R125 000, the Master of the High Court will ask your family members to appoint an executor. Anyone other than a parent, child or spouse will be required to put up security. All the while, the assets in your estate, including your bank accounts, will be frozen, creating problems for any dependants who may be in need of the money for living expenses.

If you die intestate and you have minor children (under the age of 18), money due to them will have to be paid into the Guardian's Fund, which may produce low returns and make access to the funds difficult. In any event, your heirs will clearly be in a stronger position if you make a will.

There are many benefits to investing in a consultation with a suitably qualified professional who can guide you on how to draw up the best will for your circumstances. He or she can alert you to the many legal problems that can arise when you write a will – for example, the problem of leaving a farm to more than one heir, or how to word a bequest of property that is mortgaged to a bank.

But not everyone is prepared to spend the money or the time. At least two of the big banks are

offering easy-to-complete, free, online wills. Are they worth considering?

Angelique Visser, head of fiduciary at Standard Bank Private Clients and chairperson of the Fiduciary Institute of Southern Africa (Fisa), says the online offerings are a good idea in principle, because they may result in a few more people having wills who otherwise wouldn't. However, she says, they are really most suited to people who plan to leave their assets very simply to, for example, family members.

On the other hand, a consumer education article on Fisa's website (<http://fidsa.org.za>) strongly advises against the use of do-it-yourself wills. There was a cautionary note, too, in this magazine last year ("Wills: pitfalls to avoid", second-quarter 2012). Alfie Bester, fiduciary specialist at Citadel Fiduciary and a Fisa council member, said template-type wills work in nine out of 10 cases, particularly for lower-income earners. However, in one out of 10 cases, he said, they are dangerous and an expert is required.

"Rather spend the money on a specialist. It could wind up being more expensive if you don't," he warned.

Visser says users of online will services must be aware that a will is not valid unless you sign it in the presence of two competent witnesses. A competent witness must be 14 years or older and able to testify in court. Your witnesses should also not be beneficiaries of your estate.

You should also be aware that, when a bank provides a free or cheap will, it will appoint itself as executor of the estate. When it comes to winding up the estate, the bank will charge the estate the maximum executor's fees provided for by the Administration of Estates Act. The maximum is 3.5 percent of the gross value of your estate and six percent of any income (including interest on investments) that is paid into the estate after your death. On top of these fees, the estate will pay VAT. >>

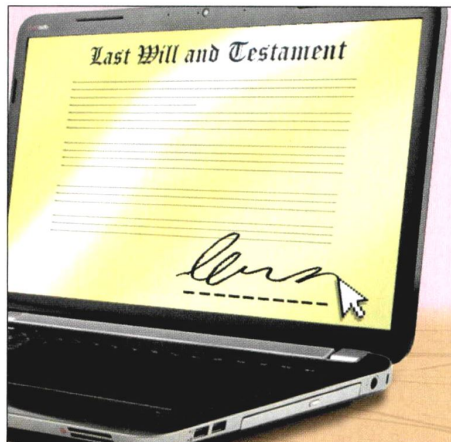


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