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Why every South African should have a valid, *up-to-date will*

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THIS month, known as Free Wills Month, offers many free will services, but beware of hidden conditions. Always exercise caution and stay fully informed before agreeing to anything. In South Africa, the right of testation allows individuals to decide who inherits their property after death, within legal limits. This is done through a will, which should be regularly updated to reflect your current wishes for asset distribution. Statistics show that many people do not exercise this right, often resulting in complications and disputes after death.

98% of people say they want to leave a legacy, yet this isn't guaranteed without a will. Statistics show that 66 to 70% of South Africans lack a will. This includes approximately 8.7 million homeowners, 5 million single mothers, 5.4 million car owners, and 1.4 million pet owners. Among parents, only a third have wills, leaving their children exposed. Reasons for not having a will include feeling too young, limited access, lack of knowledge, and inertia—although 70% believe a will is worthwhile even for estates under R50,000. The most common reason cited is the belief that people don't own enough to need a will. Many people are unaware that a will covers much more than your assets – it also authorises who should close your social media accounts, who should take care of your minor children if needed, whether you want to be buried or cremated and any special wishes, and whether you choose to have a living will, and much more. Of those with wills, 67% haven't updated theirs in the past year, and 23% last updated theirs more than five years ago. Dying without a will is not an option. Research indicates that the primary risks of dying intestate include family disputes (60%), prolonged estate

FREE will-drafting services can help South Africans prepare for the future, but readers should understand the conditions, check that their wills reflect their circumstances and seek qualified advice where necessary. | FILE

clearance (56%), and complex legal processes (42%). For example, the dispute over former deputy president David Mabuza's R44 million pension benefits after his death illustrates this issue. Without a will, estate distribution is governed by the Intestate Succession Act rather than your personal wishes. Additionally, inheritances for minor children may be held by the Guardian's Fund, which can be difficult to access until they turn eighteen.

Most people tend to avoid thinking about or planning for their own death, as it's an uncomfortable topic and not a priority amidst busy lives focused on daily survival. This, coupled with a general lack of financial literacy related to estate planning, leads many to delay or rely on often untrained advisors. For example, in the 2012 Raubenheimer case, the court noted, "It is a never-ending source of amazement that so many people rely on untrained advisors when preparing their wills, one of the most important documents they are ever likely to sign. This is by no means a recent phenomenon. … the courts continue all too often to be called on to deal with disputed wills which are the product of shoddy drafting or incompetent advice."

Many people think estate planning is only about preparing for retirement or end-of-life scenarios. However, it actually covers much more. According to Wikipedia, estate planning is simply described as "The process of disposing of your estate." This broad definition means you can organise your finances during your lifetime to benefit yourself and others, while also ensuring your legacy after you die. This clearly requires ongoing education and planning. Generally, estate planning involves five key elements: protecting the value of growth assets in your estate, safeguarding assets from forced sale by evaluating liquidity, reducing exposure to taxes like Capital Gains Tax and Estate Duty, minimising estate expenses, and facilitating a smooth transfer of your estate upon death.

The Financial Sector Conduct Authority (FSCA) reports that only about 51% of South Africans are financially literate, meaning nearly half the population lacks a basic understanding of money management. Nevertheless, approximately 86% of working adults—roughly 30 million people—lack a retirement plan. Only 26% have emergency savings, typically enough to cover just three months. Nearly half (46%) focus on living for today rather than future planning, and 44% haven't saved actively, with a third having no retirement savings at all. Additionally, many haven't checked if their estates will be liquid upon death, meaning assets like homes might need to be sold to settle taxes and costs. Only 19% have some form of funeral cover, and life insurance coverage is around 10%.

Even after COVID-19 (when many people experienced the consequences of someone dying without a valid, up-to-date will), the Master reported in 2022 that fewer than 15% of South Africans have a valid will at the time of their death, when estates are being wound up. To address this issue and facilitate estate administration, the Department of Justice and Constitutional Development (DOJ&CD) promotes National Wills Week to raise public awareness of estate planning and to motivate all South Africans to create a legally valid will—arguably the most crucial document in one's life. With Free Wills Week set for September 14 to 18, individuals are encouraged to evaluate their personal circumstances and prioritise their estate planning. Avoid having a (free) will drafted by product providers without considering your assets, liabilities, and personal circumstances. Remember, a will is the final document in your estate plan, and no universal will suits everyone, contrary to what some product providers offer. Empower yourself and leave a legacy of love.

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