

DRAFTING A WILL

DRAFTING OF WILLS

Who can make a Will?

Anyone older than 16 years old. Unless you cannot understand the meaning and effect of a Will.

How can you make a valid Will?

For Thabo's Will to be valid, it must:

- ✓ Be in **writing** (handwritten, typed or printed);
- ✓ Be signed by Thabo at the end of the Will;
- ✓ Be signed in the presence of two or more witnesses;
- ✓ If the Will has more than one page, each page must be signed.

What happens if Thabo can't sign his own Will?



Sign = signature / initials /
thumbprint / mark (X)

If Thabo can't sign his Will, someone else may sign for him, if:

- ✓ he tells them to do so;
- ✓ that person signs the Will in front of Thabo;
- ✓ that person signs the Will in front of a Commissioner of Oaths who must make sure that Thabo wants this Will to be his; and
- ✓ every page must be signed.

What is a codicil?

An extra document to change your Will.

Who can be a witness?

Anyone older than 14 years old, if they testify in a court of law.

Magdaleen can be a witness in Thabo's Will and receive the house, only if there are 2 other witnesses not getting anything from Thabo's deceased estate.

What is needed to draft your Will?

- ✓ Name and ID number of the executor of your estate;
- ✓ Name and ID number of your spouse;
- ✓ How you are married? (IN Community of Property; OUT of Community of Property with the accrual system; or OUT of Community of Property without the accrual system);
- ✓ Copy of marriage certificate;
- ✓ If you are divorced – a copy of your decree of divorce / settlement;
- ✓ Full names and ID number of all the children and other persons you want to benefit from your Will;
- ✓ In the case of minor children (children younger than 18 years old: Names and ID numbers of the guardians of the minor children;
- ✓ Details of all assets, liabilities and insurance policies etc.

What are the duties of the executor?

Thabo can choose anyone to be his executor of his estate after he dies. This can be an attorney or accountant, his spouse or family members.

Thabo chooses Magdaleen as his executor.

What needs to happen after Thabo's death?

- 1. Magdaleen must make a list of all Thabo's possessions and collect them;**
- 2. Magdaleen must receive any payments owed to Thabo;**
- 3. Magdaleen must pay all Thabo's debt (R2 500 to ABC Clothing Store);**
- 4. Magdaleen must divide the remaining property as Thabo wanted:**
 - ✓ Magdaleen gets the house;
 - ✓ Sipho gets the car;
 - ✓ Eric gets the remaining R2 500 cash.

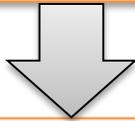
Get all the necessary information and documentation needed.



Make a list of all your assets and liabilities (debts)



Decide how you want to divide your assets after all your debts have been paid.



Seek professional assistance to draft your Will / Draft your Will.



Sign your Will in the presence of 2 / more competent witnesses.



Store your Will in a safe and dry place.