



# WILLS

THE IMPORTANCE OF HAVING A WILL  
THE IMPORTANCE OF HAVING A  
PROPERLY DRAFTED WILL

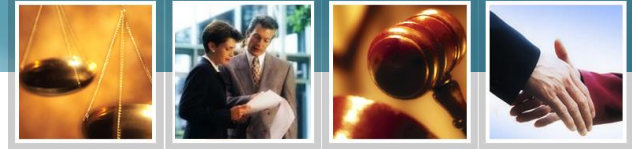
# WHAT IS A WILL



**A FORMAL WRITTEN DECLARATION OF YOUR INTENTION AS TO WHAT IS TO HAPPEN TO YOUR ASSETS ON YOUR DEATH**

**YOU NOMINATE SOMEONE (EXECUTOR) AND YOU GIVE HIM INSTRUCTIONS AS TO THE DISPOSAL OF YOUR ASSETS**

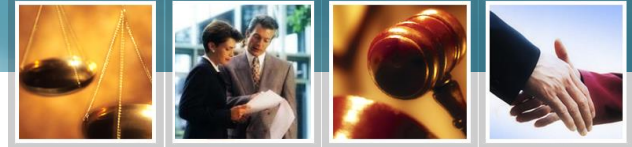
**IT IS A UNILATERAL ACT, PERFORMED VOLUNTARILY AND IT IS AN EXPRESSION OF YOUR LAST / FINAL WISHES**



YOU CAN CHANGE, AMEND OR ALTER YOUR WILL ANY NUMBER OF TIMES, BUT THE LAST WILL YOU EXECUTE IS THEN YOUR WILL – BEING THE EXPRESSION ON YOUR FINAL WISHES.

ONCE YOU DIE, THE LAST WILL IS FINAL AND IT THEN COMES INTO EFFECT.

# LEGAL REQUIREMENTS & FORMALITIES

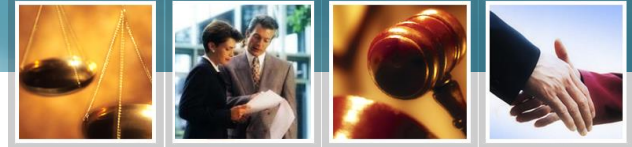


THE WILL HAS TO BE FREELY AND VOLUNTARILY MADE  
– IT IS THE EXPRESSION OF YOUR INTENTION AND  
YOUR WISHES.

THE WILLS ACT 7/1953 PRESCRIBES CERTAIN  
FORMALITIES REGARDING THE EXECUTION OF WILLS –  
SIGNATURES, WITNESSES.

THESE FORMALITIES ARE VITALLY IMPORTANT AS  
FAILURE TO COMPLY RENDERS THE WILL INVALID.

# IMPORTANCE OF DOING A WILL PROPERLY



FAILURE TO COMPLY WITH THE NECESSARY FORMALITIES RENDERS THE WILL INVALID

BADLY DRAFTED WILLS – MAKES IT DIFFICULT / IMPOSSIBLE TO INTERPRET

BOTH INSTANCES – RESULT IN HAVING TO APPROACH THE HIGH COURT TO DETERMINE

- THE VALIDITY / INVALIDITY
- THE INTENTION OF THE TESTATOR

# WHY HAVE A WILL

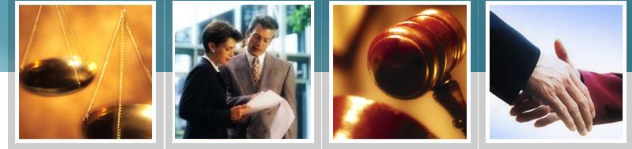


YOU GET TO CHOOSE WHOM YOU TRUST AND WANT TO ACT AS YOUR EXECUTOR

YOU DETERMINE WHAT YOU WANT TO HAPPEN TO YOUR ASSETS

SAVE FOR A FEW SITUATIONS, SA LAW ALLOWS FOR COMPLETE FREEDOM OF TESTATION

# WHY HAVE A WILL



YOU DECIDE ON MATTERS SUCH AS :

IMPOSING CONDITIONS

SETTING UP TESTAMENTARY TRUST

PROTECTION OF BENEFICIARIES

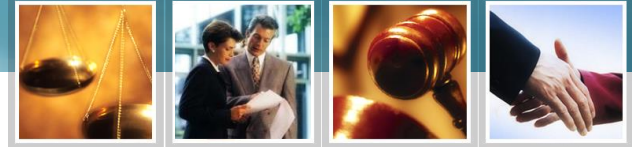
PROVISION FOR MINORS

PROTECTION OF BUSINESS INTERESTS

ESTATE DUTY PLANNING & LIQUIDITY

BURIAL / CREMATION INSTRUCTIONS

# WHAT HAPPENS IF YOU DO NOT HAVE A WILL



THE LAW OF INTESTATE SUCCESSION APPLIES

THE INTESTATE SUCCESSION ACT 81 / 1987 PROVIDES FOR YOUR ESTATE TO BE DISTRIBUTED IN SPECIFIC PORTIONS YOUR DEPENDANTS (SPOUSE & CHILDREN)

THIS SOUNDS ALRIGHT, BUT THIS MAY NOT BE WHAT YOU WANT – YOUR ASSETS MAY NOT GO TO THE PERSON OF YOUR CHOICE





ALSO :

THE MASTER OF THE HIGH COURT THEN APPOINTS  
AN EXECUTOR – AGAIN NOT OF YOUR CHOICE

THIS TAKES TIME AND CAUSES DELAYS

MINORS' INHERITANCES HAVE TO BE PAID TO THE  
GUARDIAN'S FUND

# FORMAT OF A WILL

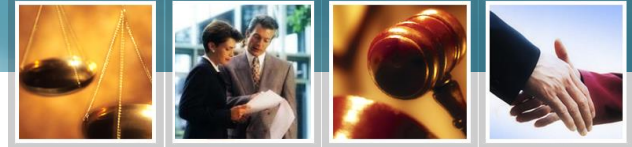


THE LAW DOES NOT PRESCRIBE ANY SPECIFIC  
FORMAT OR FORM

PRACTICE HAS DEVELOPED THAT IT IS GENERALLY  
SET OUT IN A CERTAIN FASHION

- CERTAIN STANDARD CLAUSES
- CERTAIN WORDING

# WHY AN ATTORNEY SHOULD DRAFT YOUR WILL



IT TAKES A MINIMUM OF 6 YEARS TO BECOME A PRACTISING ATTORNEY

PRACTISING ATTORNEYS BELONG TO THE LAW SOCIETY AND ARE COVERED BY PROFESSIONAL INDEMNITY INSURANCE

LAW, LIKE MEDICINE AND MANY OTHER PROFESSIONS, HAS BECOME HIGHLY SPECIALISED



# ESTATE ATTORNEYS



SPECIALISE IN

THE DRAFTING OF WILLS

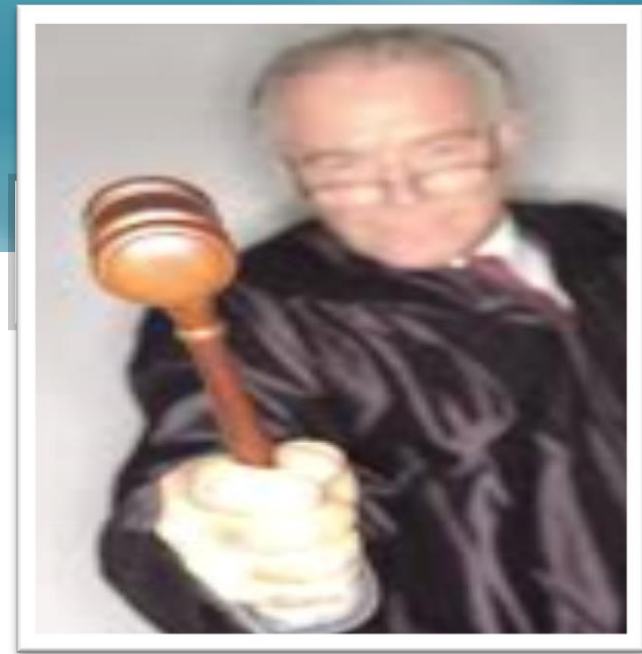
THE ADMINISTRATION OF DECEASED ESTATES

THE REGISTRATION AND ADMINISTRATION OF  
TRUSTS



# CASE LAW

EX PARTE KOCK 1952



RAUBENHEIMER v. RAUBENHEIMER 2012

WHERE THE COURTS STRESSED THE IMPORTANCE  
OF HAVING A COMPETENT DRAFTER



HAVING A PROPERLY DRAFTED  
AND PROPERLY EXECUTED WILL  
WILL RESULT IN

- THE TESTATOR'S WISHES BEING FOLLOWED
- THE PROPER AND EXPEDITIOUS ADMINISTRATION OF THE DECEASED ESTATE