

# EXECTRUST (Pty) Ltd

Formerly Trustee Board (Pty) Ltd

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## NEWS LETTER 01/2005

Deceased Estate Specialists

Trust Administration

Curatorship Administration

Wills consultation and preparation

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## WHEN LAST WAS YOUR WILL REVIEWED?

South African Law is structured in such a way that should a person die without leaving a valid Will, the Laws of Intestate Succession will be implemented. This is not always what you want to happen to your assets as, based on certain formulae, the estate will be divided amongst the blood relatives. Should a blood relative not be located within a period of thirty years, the moneys that would have been paid to that relative, will be forfeited to the State. The only way to combat this, is to prepare a Will that will not only address your concerns insofar as your next-of-kin are concerned, but may also be used for the planning of your estate. It is advisable to review your Will periodically!

## WHAT ELSE SHOULD I KNOW?

Well, your Will should comprise the following very important aspects :

1. You should revoke all previous Wills signed by you.
2. When bequeathing your assets, make sure your estate is liquid enough to cover any claims and administration expenses that you may have at your date of death.
3. It is important to nominate an Executor, but this person or body of persons must be responsible enough to know and understand what their duties are.
4. Lastly, by dating your Will, it will confirm that it is **indeed** your last Will and Testament

Other aspects should also be covered, such as providing for minor children (e.g. creating a Trust and nominating guardians) but the above pointers are of the most important to note.

Care should be exercised, however, that you do not complicate your Executor's task. Bearing in mind that his task is one of administration, he often becomes embroiled in matters that do not concern him, such as conflict resolution between family members, etc. These sorts of complexities are of such a nature that they delay the administration of the estate unnecessarily.

Many citizens have the notion that contesting a Will is an easy task and can be dealt with swiftly. Unfortunately, contesting a Will is not an easy task. The person(s) contesting must literally prove that the Testator/Testatrix was not of sound mind (or was unjustly influenced) at the time of signing their Will. Other than that, one of the delays is that of the Courts that one needs to contend with. Our courts are very busy and the Court-Rolls are full. The case may probably be heard within a period of some 12 to 18 months from the date of demise of the deceased. In the meantime, the deceased may have a business that cannot be suspended or terminated for fear of loss of income, etc.

Another aspect is that of offshore assets. If you have offshore assets, you are well advised to prepare a separate Will dealing with those assets only. One country's legal system is not the same as another.

## CREDIT LIFE ASSURANCE

This is one aspect overlooked by many. The average South African family has the need to arrange finance for the purchase of a vehicle, a home and even furniture in most cases. Taking into account the average costs of these items, if you have not made sufficient cash available in your estate, such claims have the ability to render an estate insolvent. It may be a good idea to undergo the extra expense (usually added to your contract) so that you have peace-of-mind. In doing this, you will also leave a larger portion of your estate to your beneficiaries. We will cover this aspect in more detail in a later newsletter.