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# HOW TO GUIDE – GET A WILL IN PLACE

What to do?	How to do it?
1. List, nominate and decide.	<p><b>Before getting started on drafting your Will, you must do the following:</b></p> <ul style="list-style-type: none"> <li>&gt; <u>Make a detailed list of your property</u>: full description of the property owned. For example: a red Ferrari, 2005 model, with registration number PPL 123 GP; and/or R50 000 held in an ABSA, savings account.</li> <li>&gt; <u>Make a detailed list of your heirs</u>: the names and identity numbers of the persons to inherit your property ("heirs"), as well as the type of relationship with these persons. For example, Maria Pelser, sister, with identity number 8701290017083. It is also possible to list alternative heirs, in case the original heir dies.</li> <li>&gt; <u>Decide on distribution of your property</u>: how you would like your property to be distributed to your heirs (full or partial). For example, Maria Pelser, sister, with identity number 8701290017083 will inherit the red Ferrari, 2005 model with registration number PPL 123 GP.</li> <li>&gt; <u>Nominate an executor</u>: family member, friend or professional (name, identity number and contact details) nominated to administrate your estate when you die.</li> <li>&gt; <u>Nominate a legal guardian</u>: family member, friend or colleague (name, identify number and contact details) nominated to look after your child (under the age of 18 years) when you die.</li> </ul> <p><b>RISKS</b> = Failure by you to list, describe or decide on the distribution of your property to your heirs, will lead to confusion or even intestate succession. According to intestate succession, property will be distributed amongst your family (if no family, the State). If you fail to nominate an executor, the Master of the High Court might be doing so. If you fail to nominate a legal guardian, the High Court may be doing so.</p>
2. Get and sign a Will.	<p><b>Below is a basic template of a Will, however, it is advised that you approach a professional to assist with drafting of a Will, for example, an attorney.</b></p> <ul style="list-style-type: none"> <li>&gt; <u>Provide information</u>: if using a professional, you must provide the abovementioned information to him/her, as well as your marital status and proof of same. <b>Please note:</b> a Will may look different depending on each person's circumstances.</li> <li>&gt; <u>Possibility to create a testamentary trust</u>: if necessary, a trust can be created in the Will to provide for your children until s/he reaches a certain age, or other dependants.</li> <li>&gt; <u>Confirm the content of the Will</u>: you must make sure that you understand the content of the Will and that it reflects your exact wishes.</li> <li>&gt; <b>Comply with legal requirements before and when signing a Will:</b> <ul style="list-style-type: none"> <li>- You must be older than 16 years in order to get a Will in place.</li> <li>- The Will must be in writing.</li> <li>- Each page of the Will must be signed by yourself and two witnesses, who must be older than 14 years.</li> <li>- If any changes are made on the Will in ink, you must sign/initial next to those changes, together with the witnesses.</li> <li>- People who are named as heirs, guardians, executors or trustees (and also their spouses) are not allowed to witness the Will.</li> <li>- You and the witnesses must sign the Will in each other's presence; the Will must indicate the date and place of signatures.</li> </ul> </li> </ul> <p><b>RISKS</b> = A Will is not valid if the above legal requirements are not met. A witness may not inherit from the Will that s/he signed. Failure by the testator to create a testamentary trust will lead to the inheritance of a child going to the Guardian's Fund to hold for a certain period.</p>
3. Safekeeping of a Will.	<ul style="list-style-type: none"> <li>&gt; Your Will should be kept in a place that is safe and where it can be easily found after your death. If your Will was drafted by a professional, your Will may be kept at their premises for safe keeping.</li> <li>&gt; Inform a reliable person/s where the Will is kept.</li> <li>&gt; Update your Will regularly.</li> </ul>

# LAST WILL AND TESTAMENT

I, the undersigned,

\_\_\_\_\_  
(insert full names of testator)

Identity Number: \_\_\_\_\_

being \_\_\_\_\_ (insert marital status) and presently residing at \_\_\_\_\_ (insert address)

in the province of \_\_\_\_\_ (insert province), do hereby declare this to be my Last Will and Testament.

## 1. Revocation clause

I hereby revoke all Wills, Codicils and other Testamentary Dispositions previously made by me, jointly or severally.

## 2. Appointment of Executor

I nominate \_\_\_\_\_ (insert full name and identity number) as Executor of this Will,

should s/he fail to be appointed, I nominate \_\_\_\_\_ (insert full name and identity number) to be the Executor of my estate.

## 3. Power of Assumption

Should any person nominated as Executor in terms of this Will for any reason whatsoever decide to relinquish such office, such person will be entitled to resign from such office and prior to resignation thereof, in his/her absolute discretion assume a person of his/her choice to substitute him/her as Executor in terms of this Will. In the event of a joint appointment, the remaining nominee will be entitled to assume another person of his/her choice to succeed the person who cannot act.

## 4. Security

I direct the Master of the High Court in terms of the Administration of Estates Act 66 of 1965 or any Acts amending the aforesaid Acts, to dispense with the finding of security by any Executor appointed in terms of this Will or assumed in terms of this Will.

AS WITNESSES:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
TESTATOR

5. Appointment of Heirs

I wish for my estate to be distributed as follows:

(For example, something specific that must be inherited by a specific person; or the entire estate must go to one person or more than one person in certain percentages. Be as detailed as possible about the item and the person.)

6. Exclusion of Community of Property

I direct that any inheritance or income accruing in terms of this Will shall neither form part of any existing or future community estate. The right of accrual as referred to in the Matrimonial Property Act 88 of 1984 is hereby specifically excluded from any inheritance received in terms of this Will. Such inheritance shall not be subject to the right of attachment or execution by any creditor of any spouse.

SIGNED AT

ON THE

DAY OF

20

IN THE PRESENCE OF THE UNDERSIGNED WITNESSES ALL BEING PRESENT AND SIGNING AT THE SAME TIME AND IN THE PRESENCE OF ONE ANOTHER.

AS WITNESSES:

TESTATOR