

## YOUR MONEY SORTED



# WHERE THERE'S NO WILL...

By LETITIA WATSON

Send suggestions for topics and requests for info to [yourmoney@you.co.za](mailto:yourmoney@you.co.za). We may answer your questions in this column but won't reply personally.

### If you die intestate your life partner could end up not inheriting anything

#### WHAT DOES INTESTATE SUCCESSION MEAN?

The Intestate Succession Act kicks in if you die without a will or valid will. If you're married but don't have any children your spouse inherits the proceeds of your estate, says Angelique Visser from the Fiduciary Institute of SA. If you have children but your estate is worth less than R250 000 your spouse also inherits everything. If your estate is worth more than R250 000 your spouse and children inherit it all. The apportionment is done according to a formula based on the size of the estate.

#### NO SPOUSE, NO CHILDREN

If you're not married and have no children your parents inherit the proceeds of your estate. If one of your parents has already died his portion goes to his descendants. If both your parents are dead your estate goes to your closest blood relation.

If no blood relations can be traced the proceeds of your estate are invested in the Guardian's Fund. If unclaimed after 30 years the proceeds devolve to the state.

#### LIVING TOGETHER AND INHERITANCE

Because of a Constitutional Court ruling same-sex couples who live together can inherit from each other, Visser says. The Master of the High Court requests an affidavit stating they lived together as spouses and agreed to support each other. But the same doesn't apply to heterosexual couples who live together because, in terms of another Constitutional Court ruling, nothing prevents them from getting married. Until this ruling is challenged this will apply if one partner dies intestate.

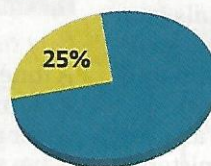
#### MORE THAN ONE SPOUSE

If the deceased was married according to customary law and had more than one wife each of them is entitled to R250 000 or a child's share, whichever is the greater. Visser says, in general, Muslim and Hindu marriages aren't legally recognised in SA. The Constitutional Court has ordered that in the case of Muslim marriages the word "spouse" in the Intestate Succession Act means more than one wife. In the case of Hindu marriages the word spouse is interpreted to mean only one wife.

## FIVE QUESTIONS ABOUT WILLS

- 1** How can you ensure your life partner inherits from you? Draw up a will or agreement about how your assets must be divided.
- 2** Who's skilled in the drafting of wills? Consult an attorney, a trust company or a chartered accountant with estate experience.
- 3** Must the will be in writing? Yes, and each page must be signed in the presence of two competent witnesses.
- 4** Who is a competent witness? Anyone who's 14 or older and is competent to testify in court.
- 5** Can the testator or someone else draw up the will? Yes, but if the person drafting the will is an executor or beneficiary there are restrictions on what they may inherit.

## FEWER THAN 25% HAVE WILLS



More than 75 percent of South Africans die intestate every year. SOURCE: ANGELIQUE VISSER, FISA NATIONAL COUNCILLOR AND DIRECTOR OF BARAZA WEALTH

**TIP!** Update your will whenever your circumstances change, such as if you marry, divorce, have children or sell assets.

#### GET MORE HELP HERE

- Fiduciary Institute of SA: [fidsa.org.za](http://fidsa.org.za)
- Master of the High Court website: [justice.gov.za](http://justice.gov.za)
- Department of home affairs website: [dha.gov.za](http://dha.gov.za)

*It's nothing to die. It's frightful not to live*

- VICTOR HUGO, LES MISÉRABLES