

# National Wills Week - Why it's important for all South Africans

Issued by [Capital Legacy](#)

29 Aug 2023

Capital Legacy officially endorses the Law Society of South Africa's (LSSA) "National Wills Week", running from 11 to 15 September this year. This initiative takes place annually, where participating firms offer basic will drafting services for free.



At Capital Legacy, every day is Wills Day, and every week is Wills Week, because last wills and testaments are in our DNA. It just made sense for us to make the whole of September Wills Month, although we draft wills for free right through the year.

The Law Society quite rightly states that “by making a will you ensure that your assets are disposed of in accordance with your wishes after your death. This privilege is called freedom of testation”. Further to this, in their latest press release, the LSSA also states that “there can be unhappiness and conflict among members of your family because there are no clear instructions on how to distribute your assets.” This is an understatement. Because Capital Legacy not only drafts wills, but also winds up deceased estates, we have witnessed the devastation first-hand of the family feuds and the chaos that arises when a loved one passes away without a will in place.

Through years of winding up deceased estates, we see all too often, the reality of families struggling to deal with the loss of a loved one almost daily. This struggle is infinitely more difficult when the loved one's affairs are not in order.

Oh, the stories we could tell. Ex-wives. New wives. Excommunicated children. Stepchildren. Minor children. Business partners. Extended family members. Long lost lovers. Surprise children. Mistresses. Hidden wealth. No wealth. International assets. Hidden assets. Lost crypto passwords... and the list goes on.

With no will and no clear wishes, this leaves the door open for drama.

Alex Simeonides, CEO of Capital Legacy, adds: “I cannot stress the importance of wills enough. We created the concept of

Wills Month as a way of further driving this message home to all South Africans. My team and I look forward to helping thousands of South Africans get their affairs in order this September, as we do every month. Whether you opt to make use of our online will or prefer a personalised consultation with one of our expert consultants, just get it done. For your family's sake."

### **Six important considerations if you don't have a [will](#) in place.**

1. You forfeit the opportunity to nominate preferred guardians for your children.
2. Cherished assets and heirlooms could end up in the wrong hands.
3. You lose control over who inherits your assets, leaving it all to be distributed according to South African legislation.
4. Delayed estate settlements can worsen the already challenging grieving process for your family.
5. Family feuds could erupt if there is no clarity as to your wishes.
6. Your partner could be left with nothing.

### **Signing your will correctly is vital**

This year we as Capital Legacy are not only motivating people to act and have their will drafted, but we are also adding emphasis on ensuring that clients understand the importance of signing and witnessing their wills correctly. If a last will and testament is signed incorrectly and without a wet signature (in ink) it is invalid and will be treated as if you have died intestate.

After drafting wills every day for the past 11 years and helping over 650,000 South Africans to get their wills in order, experience has taught us how important the above is. The statistic of South Africans without a last will and testament is shockingly high at more than 70%.

Because Capital Legacy's mission is to make the loss of a loved one easier, we are so mission-driven that we even draft wills on public holidays and after hours to accommodate our clients. We also have a courier service that collects the signed wills free of charge to ensure that it is put into safe custody.

### **Procrastination**

Over the past decade we have found that only a small percentage of clients sign their wills and have them correctly witnessed. The majority of clients need to be proactively nudged. Although well-intentioned, they procrastinate and do not get around to the critical part of signing their will and having it witnessed by two independent witnesses. Capital Legacy knows that many people simply do not have access to a printer or to two independent witnesses and gladly assist in this regard.

### **A few requirements for a will to be valid in South Africa:**

- A person must be over the age of 16 years.
- The will must be signed in ink (wet signature).
- The will must be signed by the testator/testatrix, on each page and at the end.
- The signing of the will should be witnessed by two competent independent witnesses, both present at the same time, who sign on each page and at the end of the will too.

### **Who can witness a will?**

The characteristics of an independent witness are that he/she:

- Is 14 years or older;
- Is mentally capable of providing testimony in court, at the time of signing;
- Is not specified in the will (for example as executor, trustee, heir, legatee or trustee);

- Is not the spouse of anyone who has been specified in the will (the testator/testatrix, executor, trustee, heir, legatee, or beneficiary).

## Conclusion

Whether you are a parent, a breadwinner, a homeowner or just generally want to ensure that your affairs are in order, it is important that you have a valid will drafted by a professional. With a valid will done by a professional, the chance that a claim is brought against your estate in court is minimised. A valid will allows you to state your last wishes, who should inherit your assets and property, who you would like to act as executor for your estate, and who you wish to nominate as guardian/s for your minor children (younger than 18 years old).

A valid will enables you to protect the interests of your loved ones and helps ensure that there are no unnecessary delays in settling your estate after your death.

For your complimentary will consultation, don't hesitate to contact Capital Legacy at [www.capitallegacy.co.za](http://www.capitallegacy.co.za) or speak to your financial advisor.

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▮ **Don't leave chaos in your wake** 16 Apr 2024

▮ **What happens to your home when you pass away?** 20 Mar 2024

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### Capital Legacy

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Wills & Estates Specialists

Our mission is to ensure that more South Africans have valid Wills in place and to lower the legal fees at death for our clients.

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