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WRS Fiduciary and Tax

PREAEFATIO (FOREWORD)

By Dr Stefan Strydom (LLD, CA(SA))

Director: WRS FIDUCIARY & TAX (PTY) LTD

Although our current weather system may not have received the memo, we are fast approaching the end of yet another year and of course with it comes the festive season, hailing a time for taking some well-deserved breaks and spending time with our loved ones. Just before we reach that joyous period of time we are in the period where every cup of coffee needs to be just a tiny bit stronger than the last one in order to keep us going until offices start to close and deadlines begin to fade away in our minds.

For those readers who have been following our publication there has been somewhat of an ongoing theme in our publications of late – that of a tumultuous transition caused by the ever evolving political climate, an era of increased focus on taxation and matters related thereto and increased vigour from our side in attempts to put some Windolene on our crystal ball in order to obtain the necessary clairvoyance to see how the impending (or imminent depending on which commentators you ask) Fourth Industrial Revolution will effect financial planning in the future.

What is clear is that in recent months there have been rumblings and murmurs relating to increasing the intensity of provisions relating to Black Economic Empowerment and affording certain Ministers the power to intervene where they feel that there has not been sufficient transformation.

All of these factors will need to be taken into account by practitioners worth their salt, but for this edition I believe that a change of pace is required and although we can never lose sight of the challenges, it is that time of the year to place our focus closer to home. The next few months should be a time of introspection where we ask ourselves, (and I do encourage you to do the same) the truly important questions – are all our own affairs in order? Have we ensured that everything is in place to protect our loved ones should the worst befall us, and we should prematurely depart from our mortal coil?

Yet introspection requires more than simply asking if we have prepared all of our affairs for the admittedly gloomy realisation that we are not all immortal after all (despite what we may think from time to time) and it is also a time in which we should start to ensure that we take care of ourselves, and to some degree those around us, and at the very least attempt to see the lighter side of life every day.

We often tend to get so caught up in deadlines and urgent matters that the fires of passion for our professions tend to flicker and fade until virtually nothing, but embers remain. It is truly a shame that many may be going through severe mental turmoil, which could be anything from burnout to severe depression, especially in light of an economy that is taking more hits than Rocky Balboa while very few of us will take even a moment to ask our friends, family, co-workers or employees how they are truly feeling.

It is a rather morbid affair yes, but that tiny bit of compassion could be all that is required to save a life. With all the bright lights and jovial messages in the air, it is easy to forget that the festive season is often the time of year in which people feel the most desperate and are in need of the most attention.

Every action has a reaction. This is a statement which is true in the rest of life as it is in respect of the Laws of Physics and the more we let the burdens of modern life weigh us down without taking the appropriate measures to mitigate them, the more we will feel the eventual feedback of these actions when the proverbial dam finally bursts.

Take a moment a day for yourself to laugh, or decide to take 15 minutes of every day to appreciate the natural beauty around you – even if it is only the exquisite taste of a freshly brewed cup of coffee before the realities of daily life begin to assail you yet again – a single moment can truly change the outcome of an entire day.

The pressures of modern life are immense and of that there is no doubt, but not all matters require Defcon 5 klaxons to sound off and sometimes the right course of action may be simply laughing at our own foolishness and proceeding with what needs to be done, or in some cases what needs to

be repaired. After all, in almost all cases, anything which has been done can be undone.

So our (dare I say avid) readers come and enjoy this latest publication which we hope will give you some insight and a few laughs to break up the monotonous nature of daily life whilst also encouraging you to ensure that your own affairs are in order.

We here at WRS Fiduciary and Tax, together with all our associates and contributors, would like to wish each and every one of you a truly fantastic festive season and a prosperous new year. It has been our great pleasure to be able to have been involved with each of you in some small way and we truly look forward to continuing to stroll down the path of life with you.

Let me leave you with the following remark by George Santayana, words which I believe sum up the above nicely and I truly hope will leave a lasting impression on each of you -

"Unmitigated seriousness is always out of place in human affairs. Let not the unwary reader think me flippant for saying so; it was Plato, in his solemn old age, who said it."

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1. THE LIFE AND TIMES OF A BENEFICIARY OF A TRUST

By Edrick Roux (LLB (UP))

In recent years trusts have been touted as everything from the best thing since sliced bread to an incarnation of absolute evil used only by those dastardly villains who wish to avoid tax at all costs. This comes from news snippets relating to potential tax abuse by trusts, which may I add, don't always tell the full story, as well as a fair injection of what I am convinced is nothing more Hollywood style make-believe.

Trusts are no less, and for that matter no more, useful than the knowledge which a taxpayer possesses in respect of Trust Law and however it interacts with other pieces of legislation. Where a taxpayer fails to make proper use of a trust it is usually because they lack the ability to do so and they will receive minimal benefits from making use of a trust as part of their estate planning. Such taxpayers should not feel bad though since the knowledge and ability to make proper use of trusts is often quite lacking – even in professional circles in some cases. After all, we have all heard the stories of "rubber-stamping" trustees who simply sign documents, often without even reading the content properly, and then effectively forgetting that these documents even exist.

As the old adage goes "*Knowledge is power*" and that is exactly what this segment, which will form part of a series of similar articles, seeks to provide the reader with – some knowledge in respect of trusts.

Without any further ado, let us jump right into the very first topic, which is often one of the first questions one will be asked about trusts – who the beneficiaries of a trust are and what do they actually do in practice?

Beneficiaries are in many ways the core of a trust as there would be no trust if there are no beneficiaries – both in a theoretical and in a practical sense, as it is a core requirement for the creation of a valid trust that there must be a clearly identified or identifiable beneficiaries. For the time being we will look at the role of a beneficiary in a trust and the question of what is meant with "identified or

identifiable" as that is a whole different bag of snakes that will be straightened out in a future article.

The persons, used in the widest sense possible as this could include anything from companies to other trusts, who are beneficiaries of a trust are, to put it plainly, the reason why the trust is created and are the persons who will be benefitted by the assets in the trust at any given point in time.

Broadly speaking there are two different "classes" of beneficiaries – those with vested rights to trust assets and those with discretionary rights to trust assets. A beneficiary with a vested right acquires a direct interest in the assets held in trust and those assets are effectively their assets which are being administered on their behalf by the trustees of the trust, which are contrasted with discretionary beneficiaries, who only have the potential or a hope (colloquially known as a '*spes*') to benefit from the trust assets. The trust is administered by trustees and it will be up to these trustees to decide which of the possible beneficiaries, if any, will be benefitted by the trust funds and in which proportions such individuals will benefit from the trust funds.

In exchange for the certainty of benefitting from the trust fund, these discretionary beneficiaries obtain the benefit that any assets held in trust do not form part of their estates for estate duty purposes and also cannot be attached by creditors as these are not their assets – they are trust assets which they may receive a benefit from. Of course, once the trustees have identified a beneficiary and distributed trusts assets to such a beneficiary, they obtain vested rights to such assets.

In both cases the beneficiaries of the trust can hold the trustees to account where they feel that the trust is not being correctly administered and could potentially be involved in the appointment of future trustees, depending on the circumstances and the manner in which the trust deed was drafted.

A common fiction which is still prevalent is that a beneficiary cannot be, and should not be a trustee of a trust

where they form part of the class of beneficiaries, which is simply put hogwash. While it is true that trusts require that there must be a certain amount of separation between effective control and the enjoyment of the trust assets, there is no prohibition on appointing a beneficiary as part of the board of trustees. What should be avoided is affording too much power to this beneficiary trustee, as this could lead to an abuse of the trust structure.

For example, it is possible in such cases that an argument can be raised that the beneficiary trustee was using this trust as an extension of their own personal estate and accordingly should be seen as a so called "alter ego" of the beneficiary trustee.

It is usually at this point that many will start to carelessly fling around the term "sham trust" which may well stoke the ire of many of those learned in the arcane ways of Trust Law. There is no such thing as a "sham trust". The phrase "sham-trust" refers to a trust which does not comply with the requirements for the conclusion of a valid trust and accordingly was not validly constituted and therefore does not exist. An "alter ego" refers to the situation where a validly construed trust is abused by a beneficiary, which is more likely than not also a trustee. An apt comparison is to look at the distinction between an annulment and a divorce.

Once it has been established that there is an "alter ego" situation afoot, the courts may decide to set aside the protection afforded by the trust and deem assets held in trust as part of the estate of a spouse, which usually occurs in the course of divorce proceedings.

Another phrase often applied to trusts is the "piercing of the trust veneer". The ultimate consequence of the piercing of the trust veneer is that the protections afforded by the trust are then set aside and the beneficiary loses the protections which were afforded to them. This is mostly found in the context of insolvency. It goes without saying that this only applies in the case of a discretionary beneficiary.

If an individual is found to have effective control over a trust it could also render any estate planning exercises moot due to the implementation of Section 3(3)(d) of the Estate

Duty Act, although this would require some additional red flags before this becomes a legitimate concern.

Another aspect to take into account is that once a beneficiary has received or is entitled to receive a benefit from the trust deed, they may also be required to consent to an amendment of that trust deed in future. There was a line of confusing court decisions (erroneous in our opinion) where it was found that these consent could be required notwithstanding the provisions contained in the trust deed, ie for example that only the trustees and the founder need to consent to such an amendment. This very aspect has lead to a few of the more litigiously inclined beneficiaries of trusts to legal action, which is often lengthy and expensive and as such a word to the wise – think very carefully about who to distribute benefits to and who should be involved in the amendment of a given trust, often it is not as clear cut as one would think.

Ultimately the beneficiaries are passive bystanders in the trust process which could be drawn in should specific circumstances arise, however, they have very specific entitlements and one should be careful to ensure that their involvement in trust matters do not become excessive.

Many older trust deeds, particularly those drafted prior to 2010, usually contain many provisions which could lead to substantial risks today and it is advisable to have these documents reviewed by professionals who specialise in trust matters.

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2. THE CURRENT "MARRIAGE AND RELATIONSHIP LANDSCAPE" IN SA

By Stefan Strydom CA(SA), LLD

South Africa is a country with one of the most democratic and inclusive constitutions in the world. A necessity to accommodate all the diverse cultures, races, sexual orientations, genders, ethnic backgrounds, languages and religions of the people that constitute our rainbow nation.

This inclusivity and acceptance of our differences is evident when you look at all the different acts, statutes and case law that is currently applied to determine the legal consequences of the different types of marriages and relationships that we are currently trying to accommodate in our country.

To keep abreast of all the rules applicable to marriages and of the constant changes that is brought about by case law presents a challenge. This is important and relevant information for legal practitioners, accountants and financial advisors as the implications and applications of these rules have far reaching effects for their clients, that is not solely limited to their financial wellbeing. We must be able to understand these rules and be able to explain to clients the legal consequences of their choices of either marriage, civil partnerships or domestic partnerships. The choice they make will have an impact, not just while this chosen union lasts, but also at the dissolution of such due to death or divorce. Included herein is a schematic representation with as much of the relevant information governing all the current forms of marriages and partnerships available in South Africa, which Acts governs them and if the partners are treated as spouses for the benefit of the Maintenance of the Surviving Spouses Act 27 of 1990, Intestate Succession Act 8 of 1987 and for Pension Benefits. There is also some important case law mentioned that has caused new developments for that specific type of union.

Luckily, South African Law is also not stationary and legislative changes do happen – in some areas faster than we would like and in other areas much slower than needed.

2. THE CURRENT "MARRIAGE AND RELATIONSHIP LANDSCAPE" IN SA

The South African Law commission has introduced Project 144 – A single Marriage Statute Issue Paper 35. It closed for comments by the public on 31 August 2019.

The aim of this, according to Home Affairs minister, Aaron Motsoaledi, is to provide:

"A new, single Marriage Act that will enable South Africans of different sexual orientation, religious and cultural persuasions to conclude legal marriages that will accord with the constitutional principle of equality."

This document promises a lot of positive changes and aims to create a uniform approach to the treatment of all the different types of unions in South Africa.

The practical implementation of a single Marriages Act to govern all the different marriages and unions we have available might be more of a challenge. A "one size fits all approach" has not proved to be all that successful in our country.

Only time will tell how this Act will improve the current situation. But, as this proposal is still in its initial stages, we still need to navigate the confusing landscape of different acts, case law and common law that we have currently applicable. Hopefully the "roadmap" supplied below, might make this journey a bit smoother.

2. THE CURRENT "MARRIAGE AND RELATIONSHIP LANDSCAPE" IN SA

SCHEMATIC REPRESENTATION OF THE CURRENT "MARRIAGE AND RELATIONSHIP LANDSCAPE" IN SOUTH AFRICA*

MARRIAGES				LIFE PARTNERS	CIVIL PARTNERSHIP
CIVIL MARRIAGES (Common law Marriage)	MARRIAGES UNDER CIVIL UNION ACT	CUSTOMARY MARRIAGES	RELIGIOUS MARRIAGES (non-state law)	DOMESTIC PARTNERSHIP	CIVIL PARTNERSHIPS UNDER CIVIL UNION ACT
Opposite-sex couples Monogamy only	Same-sex & opposite-sex couples Monogamy only	Monogamous and polygamous customary marriages	Monogamous and polygamous customary marriages	Same-sex & opposite-sex couples Monogamy only	Same-sex & opposite-sex couples Monogamy only
MARRIAGE ACT, 25 OF 1961	CIVIL UNION ACT, 17 of 2006 (marriage)	RECOGNITION OF CUSTOMARY MARRIAGES ACT 120 OF 1998	• MUSLIM MARRIAGE • Not a formal marriage in SA law - technically no COP. • (Dealt with as out of COP) • **Maintenance of Surviving Spouses act**	• Piecemeal recognition provided by courts and legislature. • Not a formal marriage in SA Law - technically no community of property.	CIVIL UNION Act, 17 of 2006
• If no ante-nuptial contract (ANC) - in community of property. (COP)	• If no ANC - in COP • If ANC: either out of COP excluding	• Monogamous marriage: In COP			• If no ANC - in COP • If ANC: either out of COP excluding the accrual system

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• If ANC: either out of COP excluding the accrual system or out of COP with the accrual system. • **Maintenance of Surviving Spouses Act** and **Intestate Succession Act** applicable. • Partners can claim pension interest.	the accrual system or out of COP with the accrual system. • **Maintenance of Surviving Spouses Act** and **Intestate Succession Act** applicable. • Partners can claim pension interest.	• Polygamous marriage: before 15/11/2000 out of COP. • Polygamous marriage after 15/11/2000 – in COP. • **Maintenance of Surviving Spouses Act** and **Intestate Succession Act** applicable. • Partners can claim pension interest. • Gumede (Born Shange) v President of the RSA and others [2008] JOL 22879 CC. • On 24 July 2019 approved submission of the Draft Recognition of Customary Marriages Amendment Bill of 2019 to parliament. • So expect changes	and **Intestate Succession Act** applicable. • Partners can claim pension interest. • Khan v Khan 2005 (2) SA 272 (T), • Daniels v Campbell 2004 7 BCLR 735 (CC), • Women's Legal Centre Trust v President of the Republic of South Africa and Others, Faro v Bignham N.O. and Others, Esau v Esau and Others (22481/2014, 4466/2013, 13877/2015) [2018] ZAWCHC 109; [2018] 4 All SA 551 (WCC); 2018 (6) SA 598 (WCC) (31 August 2018),	• Dealt with as if out of COP. • Can conclude a contract to govern aspects such as division of property upon termination of the partnerships. • **Maintenance of the surviving spouses act NOT** applicable. **Intestate Succession Act** applicable to permanent **same-sex** partners **not** extended to **heterosexual domestic partnerships**. • No rights to pension benefits.	or out of COP with the accrual system. • Civil Partnerships under the Civil Unions Act differs in that it recognises partnerships that are not solemnised by marriage. • This affords couples who choose not to marry the right to enjoy the benefits that marriage brings, in terms of sharing in the joint estate. • Minister of Home Affairs and Another v Fourie and Another (CCT 60/04) [2005] ZACC 19; 2006 (3) BCLR 355 (CC); 2006 (1) SA 524 (CC) (1 December 2005)

*Based on the scheme provided by JA Robinson et al Introduction to South African Family Law 6th e Printing Things, Potchefstroom 2016 40 and a scheme provided by Nici Mcdonald PSG for UFS diploma and adapted by Chista Rautenbach

3. ESTATE COSTS AND EXECUTOR'S FEES

By Justin Glanz B. Comm Law, LLB, CFP

Everybody has heard of the term "there is nothing certain but death and taxes", but only few realize the impact of the costs that are associated with the "death" part.

With recent increases such as -

- The Master's fees from R600 to a possible R7000;
- Value-added tax from 14% to 15%;
- Estate duty and donations tax of 20% on the dutiable amount up to R30 million and 25% on any amount above;
- As well as other normal services required in the winding up of an estate (attorney-, conveyancing-, accounting costs, valuation fees etc.);

- having a solvent estate has become a daunting task. Another fee additional to the above, is that of your executor, which will be the focus of this article.

In terms of Section 51 of the Administration of Estates Act 66 of 1965, the executor is entitled to the following fee:

a) such remuneration as may have been fixed by the deceased by will; or

b) if no such remuneration has been fixed, a remuneration which shall be assessed according to a prescribed tariff and shall be taxed by the Master.

Currently the prescribed tariff by the Master of the High Court is as follows:

- 3.5% on the gross value of assets in an estate;
- 6% on income accrued and collected after death of the deceased.

The executor is also entitled to charge VAT on this fee, if he is registered as such.

An executor is appointed to step into your shoes when you pass away and is responsible for the winding up of your estate and distributing your assets according to your will. The winding up of an estate requires sound knowledge of the administration process, relevant legislation, tax and

insurance policies to name a few. It might be wise to consider appointing a professional as your executor.

The Master of the High Court may increase or decrease the remuneration of the executor. This decision will not be taken lightly and will only happen under special circumstances as great value is placed on freedom of testation. Such circumstances usually go hand in hand with the work done by the executor. For instance, if the fees are so low that no executor wants to be appointed as executor, or if the complexity of the estate places a great responsibility on his duties, the Master may increase the executor's remuneration. The Master will not simply decide to increase an executor's remuneration if no request has been made.

Prescribed Tariff

If no tariff or amount is fixed in the Will, the executor is entitled to the prescribed tariff. It is clear from the above that special skills and knowledge is required which justifies the executor's remuneration. The impact that a full prescribed fee of 3.5% will have on your estate should however not be accepted blindly. 3.5% plus VAT of 15% percent amount to 4.025% of the gross estate. Gross estate also means the appraised value of the assets without deducting expenses/liabilities. As an example; executors fees on a gross estate of R5 000 000 with R1 000 000 expenses, will be calculated on the full R5 000 000 at 4.025%, and will amount to R201 250.

Tariff fixed by will

Although the prescribed tariff is 3.5% it is mere a default for where no tariff has been fixed in a Will. It is possible to fix an even higher tariff than the prescribed tariff. It is therefore not unheard of for an executor to charge a higher percentage (e.g. 4% plus VAT). Thus, the prescribed tariff does not mean the maximum for where a tariff is fixed in a Will, that amount will stand. A higher tariff should however, not merely be accepted and should be for valid reasons as mentioned above.

Other expenses

3. ESTATE COSTS AND EXECUTOR'S FEES

The next question is then: What expenses forms part of the executor's remuneration or as expenses of the estate?

Usually expenses such as travel, accommodation or stationery are not allowed as an expense of the estate, but forms part of the executor's remuneration. Again, if the expenses are unreasonable, the Master may allow additional remuneration for the executor to recover his expenses.

When an executor is appointed, it is expected that he will be able to perform his duties as such. If he is unable to perform these duties and appoints a professional to complete them, the cost of the professional cannot be charged against the estate but will have to be paid by the appointed executor.

If, however, the duties that needs to be fulfilled fall outside the normal duties and knowledge expected of the executor, a professional can be appointed whose costs will be charged against the estate as an expense.

Conclusion

Liquidity in the estate can be problematic. Although these expenses are a certainty, it does not mean that you must accept all of them.

You should not fall victim to inflated executors' fees with word such as "3.5% is the prescribed statutory tariff" or "we will draft your will for free and take a 4% tariff".

You are entitled to negotiate with your executor for an appropriate fee. Your appointed executor should be someone you trust. It should not be someone that merely administers your estate to collect a fee, but someone who will stand in your shoes after you have passed away and handles in your best interest.

Estate planning is a process that should take place before you pass away. Your appointed executor should be someone that assists you with this process. We would recommend consulting with a professional that will prepare an estate analysis to set out what your estate could possibly look like as if you were to pass away today and plan accordingly.

3. ESTATE COSTS AND EXECUTOR'S FEES

It is ideal to appoint as executor a professional person and a family member who has known the testator very well. This will mean that the professional person will have an 'insider' as co – executor to assist with the collation of information and to communicate first - hand with the family members. We also suggest that the executor's fees be negotiated and agreed upon whilst the testator, as the catalysator, is still in life, and be provided for in the Will. *This will cause no surprises later on with the family. Surprises after the death of the testator is the main cause of litigation in the field of succession.*

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4. LAST SURVIVING SPOUSE - POLICY

By Stian Redelinghuys (B.Iuris / Financial Planning Law (UFS), Post Grad Diploma in Financial Planning (UFS))

The topic of death and the financial implications thereof is not an easy topic to discuss but it is of outmost importance.

In order to get a clear and correct view of the scenario regarding your estate and the applicable taxes and fees should you pass away at this given moment, a qualified financial planner must conduct a full and proper financial needs analysis together with comprehensive estate planning for you. When the above mentioned is performed, not only will the applicable amounts of taxes (saving the maximum amount) and fees be determined but one will also be able to see if there is enough liquidity in your estate in order for your will to be executed according to your specific wishes. Knowing that your will is executable and that there is enough liquidity in your estate will give you much more peace of mind regarding your passing.

In most of the estate planning and financial needs analysis' that is conducted, it is noticeable that liquidity in the estate of the client is often a problem. Liquidity issues in an estate can be addressed through taking out a life policy and/or the realization of assets. Both of the above mentioned do have their own criteria that needs to be met before it can take place, for example to qualify for the life cover policy you will need to have a moderate health status to prevent any loadings on your premium and/or to prevent the case being turned down by the company where the application is made.

To address liquidity through a policy you have two options available namely the standard life policy with life cover as the benefit that will become payable on the death of the life insured. In-order for the policy to fulfil the primary need of addressing the liquidity issue in the estate, it is very important to note that the beneficiary split on the policy must be nominated in the correct ratio so that the correct amount is payable to the estate and/or a third party. The second option available is called the last surviving spouse - policy and this is also the option I want to focus on.

Depending on the structure of your will, estate duty is normally payable on the death of the surviving spouse

4. LAST SURVIVING SPOUSE - POLICY

through the working of section 4(q), which means that death taxes is postponed till the passing of the last surviving spouse. As the last surviving death - benefit only becomes payable on the passing of the last surviving spouse, this policy is the perfect solution to address the liquidity issue in the estate of the last surviving spouse.

On the last surviving spouse - policy both the husband and the wife are the insured lives. Now the next question that arise is what happened when the first insured life pass away? The answer is a positive point in favour of the policy for the reason being that all the future premiums for this benefit will automatically cease and no further premiums will be collected for the remainder of the second insured life's span.

As with the standard life cover policy the last surviving spouse policy also offers different choices of premium patterns i.e. a level (no increases) or a fixed increasing pattern. The cover amounts are also flexible ranging from a minimum amount of R 100 000 up to a maximum amount of R 15 000 000. The benefit is also available for a selected term (5 to 20 years) or whole of life, thus adding to the flexibility of the policy.

To sum up, the last survivor death benefit may be used to cover similar needs as that of the standard (traditional) life policy (life cover). The need, however, will arise on the death of the second insured life.

Your will is only as good as it is practicable. The issue to address may be liquidity, financial security, debt protection, education funding or a combination of the above mentioned and the last surviving spouse policy is a very helpful and tailored product not to be overlooked when it comes to your estate planning.

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The Trust, the Consumer Protection Act and You:

It is often quite easy to forget that South Africa is still a very young democracy and that many of the laws here are still suffering some growing pains, especially in light of the changing legislative landscape which is trying to adapt both to technological as well as societal progress. An interesting question was raised as to whether a trust can lay a consumer complaint. Initially, as a trust is not a person, the argument seems not to have merit, but this matter may yet surprise us in future. See https://www.livelaw.in/top-stories/is-trust-a-consumer-under-consumer-protection-act-149090

Just Do It:

Although not quite as popular as the sporting brand Nike, having a valid and well drafted Will in place is arguably far more important. According to recent news article, it is estimated that approximately 70% of working professionals in SA don't have a valid Will in place. This is something which is quite concerning and should be addressed by anybody which does not have a Will in place. See https://www.fin24.com/Money/Wills-and-trusts/over-70-of-working-south-africans-dont-have-a-will-heres-how-to-get-yours-for-free-20190915

Tik-Tok the Tech-Clock is Ticking:

There has been a massive amount of focus placed on the need to prepare for the so-called Fourth Industrial Revolution, however it would seem that the majority of business are doing little more than lip-service to attempt to adapt it. Technology is, has and probably will continue to evolve for the foreseeable future – are you ready for the coming changes? If so, that is fantastic, if not, you may be in the same boat as most legislation in this matter. Many pieces of legislation are outdated as is, let alone ready to deal with the changes which the Fourth Industrial Revolution will bring. Watch this space – it is likely that we will see increasing reports of legislation not being capable

of addressing issues which arise in practice due to the advance of technology.

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SOME UNUSUAL CASES FOR SOME INTERESTING READS

And you thought ruling from the grave was a problem -

We all know that once we pass away, the intention is not to "rule from the grave" with Wills, however apparently there is still one manner in which you can continue to have an effect in the mortal realm after your physical remains have been interred – by haunting a property. Yup. You did just read that sentence correctly. In terms of what is perhaps one of the strangest rulings we have come across, it was held that the seller of a fixed property in New York had a legal obligation to disclose if a house was haunted. Well that is one way to drop the property value I suppose. See https://lawhaha.com/strange-judicial-opinions/weird-facts/

Weird Wills -

It is generally quite common to have some bequests that a few people may find unusual, Thomas Shewbridge, a Californian, took this to the extreme. He bequeathed his shares to his two dogs. What is even more unusual, is that these dogs regularly attend shareholders' and directors' meetings. Talk about a dogs' life. See https://www.forbes.com/sites/investopedia/2011/04/12/10-strange-will-and-testaments/#22c51ab76b10

Weird Laws – China

It is commonly known that Freedom of Testation is wide, but somewhat limited in South Africa as there are some things which are simply not appropriate to include in this rule. Along a similar vein, the Chinese government seems to have decided to also look into some matters which should be dealt with after the demise of an individual, unfortunately they decided to go in a slightly different route and ban the reincarnation of Tibetan monks. I pity the enforcement agency as their compliance targets are going to be hard to hit.

See https://www.factinate.com/things/42-weird-laws/

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7. WHAT DO WE OFFER / CONTACT DETAILS

WHAT DO WE OFFER?

· Estate Planning

· Administration of Estates

· Wills

· Trusts – creation / audits

· Independent

· Trusteeships

· Tax Consultation

· B-BBEE Restructuring

· Corporate Restructuring

· Business and Personal

· Insurance

· Investments

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