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ESTATE PLANNING IS NOT JUST FOR THE WEALTHY

26 January 2010: Every year, thousands of families are left in difficult financial situations as a result of their loved ones not having put in place adequate estate planning in the event of their death. In South Africa, it is estimated that as much as three quarters of South Africans admit to having no form of estate planning in place.

These results are consistent with international findings. According to a survey by US legal website FindLaw, nearly 60% of Americans do not have a will in place. The same survey suggests that older people are more likely to have arranged a will, while only a quarter of those aged between 25 and 34, who are often most likely to be starting a family, have a will in place.

According to Chris de Klerk, Corporate Actuary at PPS Insurance, many people mistakenly believe that they do not have enough assets to warrant the drawing up of a will. "If you have any property or financial assets such as life insurance, shares or cash, it is advisable to draw up a will in order to ensure that your assets are properly distributed when you die."

He says that many people also believe that if they are married, their spouse will automatically receive everything in the event of their death. "If you don't have a will in place at the time of your death, then you die 'intestate', which means the Master of the High Court needs to intervene. Generally, this means that your spouse and children will receive the assets. However this can be a lengthy drawn-out process which can be avoided if a will was already in place."

De Klerk says that funds solely in your own name may also be frozen by the Master of the High Court until the matter of your assets has been resolved, potentially leaving your family struggling financially, especially if you are the main breadwinner.

For parents, there are other important aspects that need to be considered when planning their estates, including trust funds and guardianship of the children. Without these issues being clearly stipulated, guardianship of any dependents would be left up to the courts to decide.

“Estate planning is often not taken into consideration by young people. This becomes even more important when children are involved. Matters such as who will look after your children and how the inheritance will be structured are vitally important and should be clearly explained in a will.”

People who don't have dependents, such as a spouse or a child, may believe that there is little need for them to be concerned about estate planning. However, it is important to note that making a will is not just about deciding who gets what.

De Klerk says that part of the process of estate planning is the ability to nominate a power of attorney for both your finances and your health care. “One can also create a living will explaining exactly what kind of care you wish to receive, should you become unable to make that decision at a later date.”

“Regardless of how wealthy you are or how many dependents you may have, ensuring that the right person is appointed to make health care decisions on your behalf should you become incapacitated, is crucial.”