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# OLD MUTUAL PERSONAL WEALTH MANAGEMENT PROGRAMME

## Making a Will

A guide to understanding the drafting of a will

OLD MUTUAL

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# Why Do You Need A Will?

Nobody likes to think that they are going to die. However, proper financial planning transcends death. Most people leave behind at least some money and possessions and have strong ideas about whom they want to pass it on to.

If you want to indicate how your property must be distributed after you die, you must make your wishes known in a document drawn up in a way set out by the law. This document is called a will.

If you do not make a will, your wishes cannot be followed. Confusion, delay, unnecessary expense, and unhappiness for the people you want to benefit, may follow.

## Dying with a will

When a person dies leaving a valid will, that person is said to have died testate. The people who inherit, called the beneficiaries, are identified in the will.

## Dying without a will

When a person dies without leaving a will, or leaves a will which is invalid, that person is said to have died intestate.

South African law contains rules (the rules of intestate succession) which apply automatically in such instances. These rules determine who the beneficiaries will be. The devolution of assets under the rules of intestate succession may, however, be contrary to your wishes. The rules are too complicated to discuss in full. Basically, the closest relatives of the deceased benefit first - the surviving spouse and children. If there is no spouse or children, the parents and the brothers and sisters benefit. If these people are also not alive any more, then the next nearest blood relatives are the beneficiaries. If the deceased is not survived by any blood relatives, the property is put into a state fund, i.e. the Guardian's Fund. Such property goes to the state if it remains unclaimed for 30 years.

To summarise: South African law has a principle called freedom of testation. This means that, by embodying it in a will, a person is generally free to leave his or her property to whoever he or she wants to. Making a will thus gives you flexibility that intestate succession does not have. You are entitled by law to change your will at any time before you die.

*NOTE: When the word "property" is used in this book, it means any thing or possession that the deceased may leave behind. It includes land, dwellings, money, shares, jewellery and furniture.*

*You also have great freedom in the marriage system you choose for yourself. See the Old Mutual booklet called "Options at Marriage".*

## Summary

There are many advantages to making a will:

- You may want to decide yourself who to give what to and in what proportions.
- You may wish to benefit someone who is not a relative, such as a friend or charity. Even if you have lived with your boyfriend or girlfriend all your life, if you are not related, they will not inherit from you - unless you make a will.
- It may even be that you do not want a blood relative to inherit your property. But this is what is likely to happen if you die intestate.
- You may want to provide for the well-being of your minor children by appointing guardians and creating trusts.
- You may wish to appoint a competent and objective executor.
- The winding up of your estate will be simplified and expedited.



# African Customary Law And Wills

African customary law has its own rules of succession which explain the order of inheritance when someone dies. In practice, African customary law is often implemented differently to what current legislation dictates; this is often done to protect the interests of the widow or women in the family. The practice of African customary law may, moreover, differ from region to region, from one cultural group to another and even within the same cultural group. This makes it a fairly complicated subject.

As a result, this section does not do justice to the sensitivity of customary practice regarding women's rights and interests. For, although it is a general rule that women do not inherit property, it is a fact that there are areas where the position of women in society is different and women do own and inherit property. This is often the result of the intervention of chiefs, family members, the community or even the codes (e.g. Zulu codes for the KwaZulu-Natal area) that influence current customary practices. It is therefore recommended that women familiarise themselves with local and current traditions and practices so as to understand their rights and how their interests can be protected.

## Dying with a will

Generally, when a person dies under African customary law, leaving a valid will, his/her wishes as set out in the will, shall be followed. Basically, a person can do whatever he/she wants to do with his/her property in a will. (This is because of the freedom of testation, which applies to anybody who draws up a will.) Not all kinds of property may, however, be disposed of by means of a will.

For example:

- Movable property within a "house" established by a customary union must devolve according to African customary law.
- Land held under a quitrent tenure, i.e. rented land where the person occupying the land has the right to elect an heir in the event of his death, must go to a male heir.

Except for these instances, a person can thus exclude the customary law of succession by leaving a valid will disposing of property.

## Dying without a will

One of two basic legal systems will apply:

- either the rules of intestate succession summarised on page 2, or
- the rules of the African customary law of succession.

Basically, the system which applies depends on a number of factors, including whether the deceased was married in accordance with the civil law. If the deceased was married according to the civil law and not the customary law, then the first set of rules may apply. If the deceased was not married in the civil law, the second set of rules (set out below) may apply.

## The African customary law of succession

The rules of African customary law are mainly patrilineal. This means that the heir is a male relative of the deceased. Which male heir that is, varies from “nation” to “nation”. (For example, Zulus who live in KwaZulu-Natal are governed by the rules contained in the Zulu codes.)

Put simply, the eldest son of the deceased will inherit. If he is dead, then his eldest son will inherit from the grandfather. If the eldest son is dead and he had no children, then the second eldest son of the deceased will inherit and this process will continue. If the deceased was not survived by any male children or grandchildren, then the deceased’s father will inherit. Next in line are the brothers of the deceased, followed by the deceased’s uncles. If there are no living male relatives, then the chief of the “nation” or the state inherits the property.

Note that, generally, women cannot inherit from men under African customary law. So, when a woman dies, who inherits her property? If she died single, her father does. If she was married when she died, her husband and children do.

In *Mthembu vs Letsela* the customary law of succession rule, which generally excludes women and female children from inheriting, was challenged as discriminating unfairly against them and as such being unconstitutional. The Court held that, in rural areas, this rule did not amount to unfair discrimination as the male heir had a concomitant duty to support the women to whom the deceased was married by customary law and the children born under that system and belonging to a particular house. This means that this rule may be inappropriate and even unconstitutional where the duty of support falls away or where it is applied in an urban community.

# Who Can Make A Will?

## Drawing up your will yourself

Anyone of 16 years or older can make a will, provided that he or she is capable of understanding what he or she is doing.

It is legally acceptable to draw up your own will. You do not need anyone's assistance, nor does anyone have to certify your will. It is, however, advisable to have your will drawn up by someone with experience of wills. Most trust companies, like Old Mutual Trust, will draw up a client's will at no charge.

## The drawing up of your will by a professional such as an attorney, or a trust company specialising in this, such as Old Mutual Trust (OMT)

The advantages of consulting the above are:

- They will make sure that the will complies with the legal requirements for a valid will. Non-compliance normally makes the will invalid, and intestate succession then applies.
- They will make you aware of the many options available to you. With proper help, you should be able to draft the exact will you want.
- They will ensure that the will's language is clear and easy to understand. If not, your instructions may be difficult to follow and as a result, may even be disregarded.

*NOTE: There are two kinds of lawyers in South Africa: attorneys and advocates. Most lawyers are attorneys. These are the lawyers that members of the public consult directly with any legal problem, such as the drafting of a will. Advocates, on the other hand, act as consultants to attorneys and the public does not consult them directly.*



# A Basic Will

In this section we set out a simple example of a will. We then go through the will, explaining it step by step. The point of this exercise is to show you what can go into a will. It also shows you what has to be done in order to draft a valid will.

*(Please note that this will is used only to explain the various possibilities. Its wording is deliberately simplified to make the explanation easy. You are not advised to use it because your situation may require a different kind of will.)*

WILL

Declaration

This is the last will of me, MARIA MATLALA, presently resident in Johannesburg, married out of community of property* to PETER MATLALA.

Revocation

1. I revoke all previous wills made by me.

Nomination of executors and trustees

2. I nominate as executors and trustees of this my will, my said husband, PETER MATLALA, and my attorney, JOHN ROGERS, partner in the firm of attorneys Rogers and Partners of Johannesburg.

Legacy

3. I bequeath the sum of R5 000 (FIVE THOUSAND RANDS) to my said husband, PETER MATLALA. I direct that if he dies before me this sum shall be paid to his brother, SIMON MATLALA.

Inheritances

4. I bequeath the residue of my estate to my children in equal shares.

Substitution

5. Should a child die before me, or die before the termination of any trust created in this will in his or her favour, the benefit that would have devolved upon him or her shall devolve upon my surviving children.

**For more information on the different marriage systems, see the Old Mutual booklet called "Options at Marriage".*

MARIA MATLALA

Trust

6. Should any of my children not have reached the age of twenty-one years when I die, the inheritance(s) will not go to such child, but shall be paid to my trustees in trust, subject to the following terms and conditions:

   6.1 My trustees may, as they deem fit, use any part of the income or capital for the benefit of such child.

   6.2 If the trustees use the whole of the capital and income, the trust will come to an end. Alternatively, the trust will end when such child reaches the age of twenty-one, and the capital as it then exists shall be paid to such child.

   6.3 My trustees shall have the power:

      6.3.1 to borrow money to achieve the purpose of the trust;

      6.3.2 to keep or sell the trust assets; and

      6.3.3 to invest the capital and income of the trust.

Exclusion

7. All benefits which I give to my heirs in this will shall not form part of the joint estate of any heir, and will be excluded from the legal effects of the accrual system.

Nomination of guardian

8. If my husband, PETER MATLALA, dies before me, and any of our children is still a minor at that time, I nominate my brother-in-law, SIMON MATLALA, as the guardian of such child(ren).

Ending

Signed by me at Johannesburg on this the 25th January 1995, in the presence of the undersigned witnesses who signed in my presence and in the presence of each other, all being present at the same time.

As witnesses

1. _____
Julius Matlala

2. _____
Joseph Mokaba

_____
MARIA MATLALA



# Explanation Of The Will

## Declaration

The person who makes the will, called the testator / testatrix, should identify himself / herself as precisely as possible.

## Revocation

To revoke your will means to cancel it. There are a number of ways in which to change part or the whole of your will. One of the easiest ways is to make a new valid will in which you state that you cancel all previous wills.

## Nomination of executors

An executor is a person who winds up your estate after your death. This means that he / she administers the assets and liabilities of your estate, and transfers the remainder to the heirs in terms of your will. You are not required by law to nominate an executor in your will. However, you are strongly advised to do so and can, moreover, nominate more than one executor.

The law does not require the executor to be a professional. However, where the nominated executor has had little or no experience, it is the practice of the Master of the High Court to insist that the executor nominate a qualified person to assist him / her in the winding up of the estate. If you appoint a professional as executor or a professional assists your executor in administering your estate, executor's fees will be payable. These fees are currently 3,5% (plus VAT) of the gross value of your estate.

If you do not nominate an executor, the Master will do it for you on your death. The Master may then appoint someone as executor whom you would not want to be your executor. (Nomination of trustees is discussed later.)

## Legacy and inheritances

There are two kinds of beneficiaries: a legatee and an heir.

- A legatee is a person who inherits a specific asset or a specific sum of money. The asset or sum is called a legacy.

In the aforementioned will, Peter Matlala is a legatee. The sum of R5 000 is a legacy.

- An heir is a person who inherits the rest of your estate (the residue) after the legacies, and any claims and administration costs, have been paid. The residue is called an inheritance. In the said will, Maria Matlala's children are heirs. The rest of the estate after the R5 000 has been paid, forms the inheritance.

Conditional benefits: You may leave your property to someone subject to a condition. For example, Maria Matlala may leave the residue of her estate to her children, subject to the condition that they each obtain a university degree. If any one of them does not obtain a degree, then that child will not be entitled to inherit from her.

You may impose any condition you want in you will. However, a condition that is illegal, immoral or impossible to fulfil will be overruled in court. Your beneficiary will then receive the property free of the condition. An example of an immoral condition is where a testator leaves property to a beneficiary on condition that he or she never marries. So, if Maria Matlala left R5 000 to her husband Peter on the condition that he never remarries, this condition would be overruled. Peter would get the R5 000 even if he remarried.

Substitution: Note that simply appointing beneficiaries is not enough. They may die before you do. It is therefore a good idea to state who is to inherit from you should any of your first-choice beneficiaries die before you. Providing for an alternate beneficiary is called substitution. In the will, Simon Matlala is a substitute for Peter Matlala.

Exact identification of benefit and beneficiary: Also note that it is important to identify the legacy or inheritance with precision. In the will, the size of the legacy (the sum of R5 000) is put in both words and figures. If you give a house to someone, put its street number and plot number in the will. Take care to give the full names and dates of birth of your beneficiaries and their relationship to you.

The meaning of words: The golden rule for the interpretation of wills is to ascertain the wishes of the testator / testatrix from the language used in the will. If you do not make your wishes absolutely clear, the law will assume that certain words are intended to mean certain things.

An example of such a word is the word "children". Maria Matlala leaves the residue of her estate to "my children". The law will assume that she means all her children, of all her marriages, including illegitimate and adopted children, but no step-children. If she does not want her illegitimate children to succeed to her, she should say that she leaves her property to her legitimate children, or name them specifically.

## Trust

If you leave your property to your children, it is often advisable to create a trust for them. A trust is frequently used where you wish to benefit someone, but you want to place the control over such benefits in someone else's hands. The person for the benefit of whom the trust is set up is called the beneficiary, whilst the person who controls the assets is called the trustee. There are two main reasons why people create trusts for their children:

- If you leave money to minor children, it generally has to be paid into a government fund called the Guardian's Fund. The rate of interest might not be the most competitive. The money is then given to the child on attaining majority.

  If, by contrast, the money is placed in a trust, the trustee is able to invest it much more profitably. If the child needs the use of the money in trust, then the will, like Maria Matlala's will, usually provides for such a situation.

- Some parents are uncertain about their children's ability to deal with money, even when they turn twenty-one. They therefore set up a trust until the child reaches the age of, say, twenty-five.

In our will, Maria Matlala has appointed Peter Matlala and John Rogers as the trustees of her trust (in clause two of the will). Maria's minor children are the beneficiaries of the trust. Those who have attained majority, will receive the benefits directly.

A trust can be set up for other purposes than to benefit children. For example, some people set up trusts for charitable purposes. The testator can create any sort of trust he or she likes.

## Exclusion from community estate

You may want to leave your property to someone without that person's spouse being able to use it. In other words, you may want to exclude it from the joint estate. Say you wish to give your assets to your daughter. However, she is married in community of property. You do not want your daughter's husband to have control over the assets you give her, because your intention is that the assets remain her sole property. It is permissible to state in your will that her inheritance is excluded from the control of her husband.

In our will, Maria Matlala does not want her property to go to anyone other than her beneficiaries. Thus, Peter's future spouse or Simon's spouse or the children's spouses cannot share in any inheritance from Maria.

*NOTE:*
*A testator/testatrix who bequeaths property to a beneficiary married in community of property subject to an exclusion clause, must take note that while such a provision may protect that beneficiary during and on termination of the marriage against the other spouse, the clause will be ineffectual on insolvency of the joint estate.*

## Nomination of guardian

If you have minor children you may nominate a guardian for them in your will. The law will only follow your wishes if, when you die, the child does not have another guardian. For example, you may appoint a guardian for your child if the child's other parent is dead.



## The requirements for a valid will

The law lays down the following requirements. If any are not met, the will is invalid:

- The will must be in writing.
- The will must be signed by the testator/testatrix on every page. Note that this has been done in our will.
- The will must be signed by at least two witnesses who must be 14 years or older. They only need to sign on the last page of the will.
- The witnesses and testator must sign in each other's presence.

*Note: You are strongly advised to date your will.*

# Other Contents Of A Will

## Joint wills

Two or more people can make their will together. This is called a joint will, i.e. it is a document containing the wills of two or more people. The most common joint will is made by spouses, more so if they are married in community of property.

It is not true that if people make a joint will, they can only change it jointly. Freedom of testation allows each person to change the joint will in so far as it concerns him or her.

## Usufruct and fideicommissum

You may want to leave your property to your child(ren), but at the same time provide for your spouse's needs while he or she is still alive. The device in our law which allows this to be done is called a usufruct.

A usufruct is constituted when a testator / testatrix leaves the ownership of certain property to one person, subject to the condition that some other person has the right to use it until the termination of a certain period.

For example, you may leave your house to your children, subject to the condition that while your spouse is still alive, he or she has the right to live in it.

A fideicommissum is a legal institution in terms of which the testator / testatrix transfers a benefit to a particular beneficiary, who becomes its owner and who can use and enjoy it. At the end of a certain period of time, the benefit goes to a further beneficiary, who becomes the new owner. The difference between a usufruct and a fideicommissum is that, with a usufruct, the first beneficiary is not the owner of the property. He or she simply has the right to use and enjoy it. The second beneficiary is always the owner, whereas with a fideicommissum, the first beneficiary owns the property for a period of time before the second beneficiary becomes the next owner.



An example of a fideicommissum is where you leave your farm to your child, subject to the condition that when he or she dies, the farm goes to his or her child. When that child dies the farm belongs to the next generation. It is important to note that a fideicommissum limits the transfer of immovable property to three generations. The third generation thus acquires this immovable property free of such restrictions.

To date certain limitations exist on a testator's ability to bring about a subdivision of agricultural land through a testamentary provision. This also applies to the creation of a usufruct or fideicommissum over a farm. Note, however, that a new law which repeals these limitations, is about to become effective.

The above explanations are simply a few important examples of the many different ways in which you can make your will. The law gives you great scope to create a will that will best suit your wishes.

## Massing of estates

Two or more people can, by means of a mutual will, merge their estates, or portions thereof, for the purpose of a joint disposition of the combined estate. Usually the surviving spouse gives up his / her right to an unrestricted half share of the joint estate or, where they are married out of community, to his or her separate estate, to their children in return for a usufructuary, fiduciary or other limited interest in the massed estate. Thus a disadvantage of massing is that after the death of the first-dying testator / testatrix, the survivor cannot by a later will dispose of his / her share of the massed estate, if he / she accepts the limited interest conferred on him / her by the will. If you consider making use of this device, you are strongly advised to consult a professional - he / she can point out any further disadvantages and advantages of this device.

# Duties Of The Executor

## Appointment of the executor

When you die, any person who has the original signed will is required by law to send it to the Master of the High Court. The Master is a state official who is in charge of the winding up of the estate of deceased persons.

If the will does not name an executor, the Master will either appoint someone directly or convene a meeting of, among others, the surviving spouse and the heirs of the deceased, for the purpose of recommending to the Master a person for appointment as executor. If the will does name an executor, this executor must report to the Master. The Master must first confirm the appointment of the executor before he or she can start his or her duties.

## The liquidation and distribution account

The executor establishes what the deceased owed at the time of his or her death by advertising to creditors to make their claims known to him. The executor then draws up an account of the estate of the deceased, called a Liquidation and Distribution Account. The account adds up the debts of the deceased. It also calculates the total assets of the deceased. The debts are subtracted from the assets. The difference will then be divided among the beneficiaries.

The executor sends the account to the beneficiaries and to the Master of the High Court. The executor advertises that the account will lie in the Magistrate's and Master's office for three weeks for inspection. (The executor must advertise in the government newspaper, called the *Government Gazette*, and in an ordinary newspaper.) Anyone who is interested can inspect it there. If nobody objects to the account, and the Master is satisfied with it, the executor pays the creditors and divides the balance among the beneficiaries. The executor is then released from his or her duties by the Master. The executor is paid a fee from the estate for his or her work.



# Updating Your Will

Just as you review your budgets and other financial plans, you should review your will every now and then. You should do this especially if there have been major changes in your circumstances, such as marriage, or the birth or adoption of a child.

You can change part or the whole of your will at any time. There are a number of ways in which you can do this:

- The simplest is to make a new will in which you state that you cancel all previous wills.
- If you change your will by writing the changes on the will itself, then you and two witnesses must sign next to the alteration. If you and the witnesses do not sign, then the will shall be read without the change. (Again, you are strongly advised to date the alterations.)
- You can cancel your will simply by destroying it with the intention to cancel it. But this may give rise to certain difficulties when you die. An example of such a difficulty is that it may not be clear whether you destroyed the will or whether someone else did, without your consent.

In short, the safest way to change your will is to make a new one in which you cancel the previous will. If you do this, then also make sure that you destroy the previous will.

## Three months' grace

Spouses usually benefit each other in their wills. On divorce, they are often too upset to think about changing their wills in order to disinherit their ex-spouse. But they probably would not want their ex-spouse to inherit from them. The law accordingly allows a spouse three months in which to change his or her will. Put simply, if H makes a will in which he leaves property to his spouse W, and the spouses subsequently divorce, W will not inherit anything if H dies within three months of the divorce without having changed his will. However, if H dies more than three months after the divorce without having changed his will, then it is his fault for not changing it. The law will not change it for him. The assumption then is that H did not want to change his will.

## Is Anyone Disqualified From Inheriting Under A Will?

- Any person who wilfully caused the death of: the testator, his parents, his spouse or children, is disqualified from inheriting under such testator's will.
- Any person who, in the opinion of the court, exercised undue influence on the testator, may also be disqualified from inheriting under a will. In this case, the conduct of the beneficiary towards the testator will be a determining factor.
- Any person who signs a will as a witness, or who signs a will in the presence and by the direction of the testator, or who writes out the will in his own handwriting, and the person who is the spouse of such person at the time of making the will, shall be disqualified from receiving any benefit (including being nominated as executor, trustee or guardian) from that will. This general rule is, however, subject to several exceptions:

  For example:

  - If John Rogers was one of the witnesses, he would not, according to the general rule, be appointed as executor. However, if the will was signed by at least two other witnesses who won't benefit therefrom, or if the court is satisfied that he did not unduly influence Maria when she drew up the will, then he is allowed to be the executor.
  - If Maria's husband, Peter Matlala, wrote the will in his own hand, then he will not, according to the general rule, inherit from her. However, because he would have been entitled to inherit from her if she died intestate, he is allowed to receive a benefit up to the value of what he would have received under the rules of intestate succession.



## A Checklist

Here is a list of some of the important things that you should keep in mind when you have your will drawn up:

1. Identify yourself in the will with exact precision.
2. Sign the will on every page.
3. At least two witnesses must sign on the last page of the will. These witnesses must be 14 years old or older.
4. Date the will.
5. Include a revocation clause if you want to cancel all previous wills.
6. Name the executor(s). Find out what powers the law gives an executor and decide whether you want to give him/her more powers in your will.
7. Indicate who will inherit your property when you die. Check that you have accounted for all your property in your will. Identify your beneficiaries by giving their full names, dates of birth and relationship to you. Identify the benefits you give by describing the property in clear and exact language.
8. When you use the word "child(ren)", think about which children you want to benefit. Make your will reflect what you want it to.
9. Appoint substitute beneficiaries should your first-choice beneficiaries die before you.
10. If you do not want the spouse of a beneficiary to share in your property, say so in your will.
11. Consider whether you want to put your property into a trust, especially where you have minor children. Nominate your trustee(s). Set out in the will what you want the trustees to do with the trust property.
12. It is advisable to nominate a guardian for your minor children.

# A Simple Legal Dictionary

African customary law: The traditional black African legal system that has existed in South Africa since before the European settlers came.
Attorney: A lawyer that members of the public consult directly with any legal problem, such as the drafting of a will.
Beneficiary: A person who inherits property.
Civil law marriage: The only form of marriage that is fully recognised by South African law.
Community estate or joint estate: When spouses are married in community of property, all their property, with certain exceptions, falls into a joint estate in which they each have a half share.
Conditional benefit: A benefit which can only be received by a beneficiary if a certain condition is satisfied.
Customary law marriage: A marriage between black South Africans according to customary law.
Deceased: A person who has died.
Deceased estate: The estate of a dead person.
Estate: The assets and debts of a person.
Executor: A person who winds up the estate of a deceased.
Fideicommissum: A legal institution in terms of which the testator / testatrix makes a beneficiary the owner of property, subject to the condition that at the end of a certain period of time, the property is owned by the next beneficiary.
Freedom of testation: A principle of law that entails that people are generally free to leave their property to whoever they want to by means of a will.
Heir: A person who inherits the rest of the estate after the debts, and any legacies have been paid.
Inheritance: The benefit that an heir receives.
Intestate: Dying without a will or without a valid will.
Intestate succession: The law that determines who the beneficiaries are when a person dies intestate.
Joint will: A document containing the wills of two or more people.
Legacy: The benefit that a legatee receives.
Legatee: A person who inherits a specific asset or a specific sum of money.
Limited interest: An interest in property less than full ownership, i.e. a usufruct or a fideicommissum.



Liquidation and distribution account: An account drawn up by the executor. It sets out all the assets and the liabilities of the deceased estate, and how they are distributed in terms of your will.
Major: A person who is at least 21 years old, or a person who is under 21 and married with a guardian or court's consent.
Massing: A device whereby two or more people (by means of a mutual will) merge their estates, or portions thereof, for the purpose of a joint disposition of the combined estate.
Master of the High Court: A state official who is in charge of the winding up of deceased estates.
Mutual will: A joint will in which two or more testators mutually benefit each other in the same document.
Patrilineal succession: A system of succession in which male relatives are the heirs.
Property: Anything which is capable of being owned and which another person can inherit, such as money, land and jewellery.
Revocation: The cancellation of a will.
Substitution: The nomination of an alternative beneficiary.
Succession: The law which directs what happens to a person's property when he or she dies.
Testate: Dying with a valid will.
Testate succession: The law that sets out the requirements for the making and changing of a valid will. It also explains what can be put into a will.
Testator / testatrix: The person whose will it is. This person must be at least 16 years old and be mentally capable of understanding the act.
Trust: A legal entity in terms of which property is transferred to a trustee who administers it for a specific purpose, e.g. for minor heirs or for a charitable purpose.
Trustee: The person who administers the assets in a trust, not for his own benefit, but in favour of someone else.
Usufruct: A legal institution in which someone, who is not the owner, is given the right to use and enjoy property for a certain period of time. At the end of this period, the property must be handed over to the person who owns it.

If you would like more information and advice, we suggest that you contact your Old Mutual adviser, your broker or your nearest Old Mutual branch first. If this is not possible, Old Mutual Trust Limited (OMT), Old Mutual's own trust company which provides all traditional trust services (i.e. wills, trusts, administration of estates and so forth), can be consulted at the following addresses and telephone numbers:

Johannesburg
*Old Mutual Trust*
*26 Wellington Road*
*Ground Floor*
*Parktown*
*Johannesburg*
*2001*
*Tel.: (011) 481 4150*
*Fax: (011) 227 2401*

Port Elizabeth
*Old Mutual Trust*
*64 Govan Mbeki Avenue*
*9th Floor*
*Port Elizabeth*
*6001*
*Tel.: (041) 502 4453*
*Fax: (041) 502 4456*

Pretoria
*Old Mutual Trust*
*Pencardia Building No.1*
*2nd Floor*
*509 Pretorius Street*
*Arcadia*
*0007*
*Tel.: (012) 483 5237*
*Fax: (012) 483 5238*

Bloemfontein
*Old Mutual Trust*
*160 Zastron Street*
*Bloemfontein*
*9301*
*Tel.: (051) 505 2314*
*Fax: (051) 505 2318*

Durban
*Old Mutual Trust*
*6th Floor*
*Garlicks Chambers*
*61 Field Street*
*Durban*
*4001*
*Tel.: (031) 302 5442*
*Fax: (031) 302 5441*

Cape Town
*Old Mutual Trust*
*16th Floor*
*Pleinpark*
*Plein Street*
*Cape Town*
*8001*
*Tel.: (021) 504 4123*
*Fax: (021) 504 4419*