

# ARE YOU SURE YOUR HEIRS ARE GOING TO RECEIVE THEIR INHERITANCE?



A look at the Guardian's Fund and the necessity for every individual to have a well drafted Will. **By Debi Godwin, Director - Independent Executor & Trust.**

It was with absolute shock and dismay that I read about the embezzlement of approximately R80 million from the Guardian's Fund by corrupt justice officials. The Guardian's Fund falls under the administration of the Master of the High Court and was created to hold and administer funds paid to the Master on behalf of various people such as minors, people who are incapable of managing their own affairs, unborn heirs and missing or absent people. This development of fraud perpetuated by corrupt officials highlights the necessity for every individual to have a well drafted Will. To explain a little further....In practice, the most common form of inheritances ending up in the Guardians Fund, are as follows:

**Inheritances due to the minor heirs to an estate.** This frequently happens when the Will does not stipulate the funds are to be retained in Trust for the benefit of the minor, or where there is no Will and a minor inherits under the Intestate Succession Act, 81 of 1987. Guardians of minor heirs with funds in the Guardians Fund can of course make application to the Guardians Fund, during the heir's minority to obtain funds for specific purposes such as education, clothing, medical and other motivated needs (if they haven't been stolen!). However, this is a lengthy process and the funds are not instantly obtainable.

**Inheritances due to major heirs who cannot be traced.** Whilst Executors should do all they can to trace the heirs, and at times even appoint tracing

agents, there are times when an heir, whose contact details are not known to the family, simply can't be found.

If a person suspects that there are funds due to them from an inheritance /bequest, the first step would be to contact the Executor and ask if they have inherited from the estate. When making payments to the Guardians Fund, Executors are provided with receipts for the payment and such receipt can be handed by the Executor to the person seeking benefits, to take to the relevant Master of The High Court's Office. If the Executor confirms that there are funds deposited with the Guardians Fund, then the claimant can claim the funds together with any accrued interest on turning 18 (attaining the age of majority). There are some other instances when a minor may attain majority earlier than 18, such as getting married or being declared a major by the High Court.

After the lapse of a period of five years after the money has become claimable, the Master pays the unclaimed money to the Receiver of Revenue Payment Register. This does not mean that the owner of the money cannot claim the money from the Guardian's Fund. However, after the lapse of a period of 30 years after the money has become claimable, the money is forfeited to the state. Every year during September the Master advertises accounts that have been unclaimed in the Government Gazette. ☉



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