

# Wills and Intestate succession

## Recent developments

### **1 Introduction**

- 1.1 Background
- 1.2 Purpose of the Seminar
- 1.3 Topics

Session 1:

### **2 Drafting of a will**

- 2.1 Drafter of a will
- 2.2 When is a document a will?
- 2.3 Consultation with client
- 2.4 Freedom of testation
- 2.5 Testamentary capacity
- 2.6 Witnesses to a will (attestation)
- 2.7 Single will/Joint will
- 2.8 Mutual will/Massing/Election

Session 2:

### **3 The proper formulation of a will**

- 3.1 Important clauses in a will
- 3.2 Essential clauses
- 3.3 Simultaneous death
- 3.4 Creating a *mortis causa* trust
- 3.5 Additional clauses in a will
- 3.6 Collation
- 3.7 Stating the capacity of testator
- 3.8 Exclusion of those contesting the will
- 3.9 Excluding benefit from accrual or communal estate
- 3.10 Unborn children, adopted children and children born out of wedlock
- 3.11 Insolvency clause

Session 3:

#### **4 Formulating the Content of a Will**

- 4.1 Differences between testamentary institutions
- 4.2 Legacies
- 4.3 Residue/inheritances
- 4.4 Conditions (uncertain future event)
- 4.5 Term
- 4.6 Representation – section 2C(2)
- 4.7 Accrual – section 2C(1)
- 4.8 Vesting of rights
- 4.9 Ususfruct
- 4.10 Charitable trusts/trust for minors, persons with special needs and pets

Annexure 1: Simple will

Annexure 2: Joint will

Annexure 3: Mutual will

Annexure 4: Mortis causa Trust

Session 4:

#### **1 Intestate succession**

- 1.1 Introduction
- 1.2 Legislation
- 1.3 Definitions

#### **2 Division of estate**

- 2.1 Provisions of section 1(1)(a) - Spouse(s) as sole heir
- 2.2 Provisions of section 1(1)(b) - Descendants as sole heirs
- 2.3 Provisions of section 1(1)(c) and sections 1(6) and (7) - Spouse(s) and descendants share
- 2.4 Provisions of section 1(1)(d) and 1(1)(e) - Parents and their descendants (collaterals) inherit
- 2.5 Provisions of section 1(1)(f) Grandparents/Uncles/Aunts
- 2.6 No intestate heirs