

Law matters for farmers

When a farmer dies without a will

When a farmer dies without leaving a will, the nearest and dearest, apart from feelings of sadness and loss at the passing away of a loved one, are also overcome with concerns and insecurities about what happens next.

Obviously the surviving spouse and the rest of the family want to know who inherits the farm and the cattle and who will administer the farmer's estate. Rest assured, our legal system has procedures and rules in place which means dying without a will is not the end of the world.

The Namibian rules of intestate succession will determine who inherits the farm and the rest of the assets, which means that the estate will be divided up between the intestate beneficiar-

ies. Usually the intestate beneficiaries will be the surviving spouse, if there is one, and the children of the deceased. When there are no children, the parents of the deceased in certain circumstances will inherit with the spouse.

There is an intestate succession rule that applies for each possible scenario and the person who administers the estate will be able to explain to you who will be the beneficiaries in the estate. Within 14 days of the funeral, the nearest relatives of the deceased will have to find a deceased estate practitioner, who can be an attorney, chartered accountant or a nominee from a recognised trust company or a bank. He or she will act as the agent of the Executor Dative and take over

the responsibility for the farm and animals, winds up the estate and ensure that each intestate beneficiary receives his inheritance.

A list of recognised estate practitioners with their contact details is available at the Master's Office, or alternatively, you can also approach your attorney or accountant for the name and contact details of an estate practitioner. It is important to appoint an estate practitioner that is experienced in the administration of farm estates. Farm estates have certain challenges and we have all heard of such estates which take many years to finalise. In the process the estate is eroded or diminished as assets disappear or the beneficiaries end up fighting with each other. An experienced estate practitioner can help prevent this.

My best advice is to do your homework. Meet with at least two or three estate practitioners and then choose the one that suits your requirements best.

In the coming months I will be dealing with issues such as: when is the cattle in an estate sold on auction; when is the farm sold on

auction; when must the estate offer the farm to the government; and how big a role does the wishes of the beneficiaries play in the administration of a deceased estate?

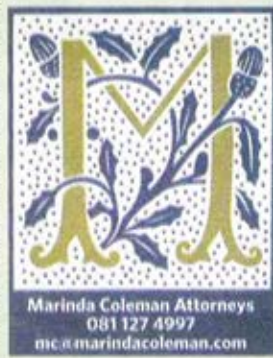


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