



LEGAL NEWSLETTER

NEWSLETTER
17/11/2010

NOMINATING A POLICY TO A MINOR

PERSEPTIONS: When a minor is nominated as beneficiary on a policy:

Should my minor child be a beneficiary upon my death:

- *the proceeds of the policy will be paid to my child and it will be administered by the trustees of the trust created in my will for the benefit of my minor child.*
- *the proceeds of the policy will be paid to the executor of my estate and will devolve upon my heirs in terms of the stipulations of my Will.*
- *will be paid into the Guardians Fund administrated by the offices of the Master of The High Court*

FACTS:

1. The proceeds of a policy, where a minor is the beneficiary on the policy, will **not** be paid to the trustees of the trust created in a Will to be administered for the benefit of the minor.
2. The proceeds of a policy, where a minor is the beneficiary on the policy, will **not** be paid to the estate of a deceased person to be inherited in terms of the stipulations in a will.
3. The payment of the proceeds of a policy to a minor is not regulated by the stipulations of the Estates Act number 66 of 1965.
4. All Insurance Companies do not treat the payment of the proceeds of policies to a minor in the same way
5. An Insurance Company may decide to:
 - 5.1 Pay the proceeds of the policy to the guardian of the minor.
 - 5.2 Deposit the proceeds of the policy into the bank account of the minor.
 - 5.3 Administer the proceeds of the policy in trust for the benefit of the minor.

Single parents often take out a policy and nominate his/her minor child as beneficiary on the policy with the intention to assist with the maintenance, education etc. of the child and in many instances to fulfill his/her obligation to pay maintenance in terms of the stipulations of a Divorce Order. ***From the above mentioned, it is clear that this may not happen.***

WHAT SHOULD TESTATORS DO:

- a. Testators should not nominate a minor as a beneficiary on a policy.
- b. If there is no beneficiary nominated on a policy the proceeds of the policy will be paid to the estate of a deceased person.
- c. Testators may then bequeath the proceeds of the policy to the child with the instruction that, should the child inherit before attaining majority (presently 18 years old) or the age stipulated by the testator (21, 25 or other age), the proceeds be paid by the executor to the trustee of a trust created in the Will to provide for the maintenance, education etc. of the child and firstly to provide for payment of maintenance in terms of the stipulations of a Divorce Order. This will prevent the ex-spouse claiming against the estate for maintenance in terms of the Divorce Order.
- d. As soon as the child attains the age the testator considers the child responsible enough to utilize the proceeds of the policy responsibly, the child can be added as beneficiary on the policy and the Will can be amended.

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