

ESTATE PLANNING ESSENTIALS

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Practical problems relating to the estate of the farmer

The executor must first be appointed by the Master of the High Court before he/she is entitled to deal with the farm. This process takes time and may lead to practical problems, for example:

- On the death of a farmer, there is often one major asset in the estate with a significant value and the estate duty potentially payable could lead to liquidity shortfalls in the estate.
- This problem is exacerbated by the fact that the family would not want to sell the asset to pay the debts as this may be the only home the family has and a bond may need to be taken out to settle the costs and debts in the estate.
- Does the surviving spouse have income or money of her own to support her while the estate is being finalised?
- Who will manage the farm on behalf of the executor while the estate is being finalised? A continuity plan is of paramount importance as the family may not be in a position to handle the day to day requirements of the farm. For example, the farmer's son who is inheriting the farm may be abroad and the spouse may not be in a physical or mental position to take over the day-to-day farming activities
- Certain contracts may have been concluded with suppliers and are more often than not merely a verbal contract between the farmer and the supplier. A new contract between the son and the supplier may therefore not be on as favorable terms as the original contract between the farmer and the supplier.
- Payment of the day-to-day cash wages that need to be paid to the farm workers is also a consideration.
- At death no vehicles can be transferred to the heirs if there are outstanding motor vehicle licenses. Licensing should therefore be done on a regular basis.

SUMMARY

It takes a farmer many years to build up a legacy. This legacy can however be destroyed in an instant. Specialised advice and implementation during his lifetime, regarding his wishes, and the practical considerations that death inevitably brings about are vitally important.

Any queries may be directed to:

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