



## ADMINISTRATION OF DECEASED ESTATES

In South African law the Administration of Estates Act, Act 66 of 1965 (as amended) and the Intestate Succession Act, Act 81 of 1987 (as amended) prescribes the process of administering a deceased estate. When a person with a valid Will dies, the death must be registered at the Master of the High Court in which jurisdiction the deceased resided at time of death. During registration of the death certain documentation must be submitted for example, the original Will, the Death Certificate, an Inventory of the deceased's assets.

In the event that the value of the estate exceeds R250 000.00 the Master will appoint an Executor and Letter of Executorships will be issued. This document gives the Executor authority to administer the estate.

### WHAT ARE THE STEPS THAT SHOULD BE FOLLOWED?

1. An advertisement must be published in the Government Gazette as well as in one local newspaper in the area where the deceased resided. The purpose of this step is to notify creditors of the death. The creditors have 30 days in which they must lodge a claim against the estate.
2. The Executor will open an Estate Late bank account.
3. The Executor must obtain full details of the estate's assets.
4. The Executor must ascertain the full extent of the liabilities of the estate.
5. A Liquidation and Distribution Account is drafted by the Executor and the account shall clearly indicate all assets, liabilities, and the distribution of heirs, etc. The account is to be lodged with the Master of the High Court within six months after the Letter of Executorships has been issued.
6. The Master of the High Court shall examine the account and thereafter issue a memorandum.
7. Subsequent to the approval of the Liquidation and Distribution account by the Master of the High Court, the account is to be advertised and lay open for inspection for a period of 21 days at the Magistrate's Court, in the jurisdiction the deceased resided prior death.
8. If any written objections are received it must be dealt with in a prescribed manner. In the event that there are no obligations, the Executor is to pay all the creditors and heirs and transfer the assets to the heirs.
9. In general the process is not complex and it should be completed within a reasonable period of time. Unfortunately, it is a reality that there are many obstacles that may delay the process for months even years. Some of these obstacles include incorrect and impracticable Wills, also the absence of a Will, disputes among heirs etc.

### WHAT DOCUMENTS WILL YOUR ATTORNEY NEED?

#### A. Deceased details:

- Original Identity document of the deceased
- Original Death Certificate
- Original Last Will and Testament
- Deceased's most recent proof of address



- Income tax reference number of the deceased
- Name, address, tel. no. of the deceased's employer and deceased's occupation
- Name, address, tel no. of the deceased's pension fund (pension fund number)
- In the event of an unnatural death the SAPS report
- A certified copy of Surviving Spouse's Identity document (if applicable)
- Occupation of Surviving Spouse (if applicable)
- Certified copy of Marriage certificate (if applicable)
- Certified copy of Antenuptial contract (if applicable)
- Divorce Order (if deceased divorced)
- Information regarding pre-deceased spouse (if deceased widow/er) i.e Full name of predeceased, date of death, Masters office location and Masters office estate number.
- Full names of children (Identity document copies if available); if not available the children's ages and full details
- Full names of the deceased's parents and advise if they are alive

**B. List of deceased's assets, as well as:**

- Original registration documents of any motor vehicles
- Original title deeds of any immovable property
- Original share certificates or proof of shares held
- Certified copy of bank statements
- Full details regarding any investments
- Full information regarding policies (life etc)

**C. List of deceased's liabilities, including, for eg:**

- TV licence
- Telephone / cellphone accounts
- Municipal account
- Undertaker's account/Funeral account
- Bond holder's details (if applicable)

*It is always better to consult with an experience attorney and ensure that your attorney explains everything to you in detail until you understand.*

*This information is only meant to be used as a guideline and does not cover all requirements relating to the topic and is not envisioned to bind us in any way.*

*Consult your attorney.*