

ADMINISTRATION OF DECEASED ESTATES

This is a brief overview intended to inform family members and beneficiaries of the procedure to be followed in order to divest the deceased person of his or her assets and to transfer these assets, after payment of any debts in the estate, to the testamentary or intestate heirs.

WITH COMPLIMENTS FROM



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ADMINISTRATION PROCESS

Step 1. Reporting the Estate

This is generally done by means of a covering letter to the Master of the High Court accompanied by certain prescribed documents e.g. the death notice, the death certificate, the original will (if there is one), an inventory, the Acceptance of Trust as Executor or Next-of-kin affidavit and nomination by heirs.

A large amount of information is required for the proper completion of these documents. Therefore it is advisable to ascertain what information is going to be required before the first consultation with the attorney.

Step 2. Receipt of Letters of Executorship

Until letters of executorship have been issued by the Master, there is no-one who can validly represent and act for the estate.

Step 3. Notice to creditors and opening of an estate banking account

Once the Master has issued letters of executorship, the executor (or the attorney as his/her agent) must place a notice in the Government Gazette and in one or more newspapers advising creditors to prove their claims within a specified period.

An executor must also open a cheque account in the name of the estate as soon as he has monies in hand in excess of R100.

Step 4. Information gathering, valuations, balance certificates, realisation of assets etc.

Family members are required to provide the executor with information in respect of assets and liabilities. Valuations of property, which will probably not be sold, must be obtained by the executor and he must obtain balance certificates from the financial institutions.

All this information is required not only to be able to transfer the assets into the names of the heirs, but also in order to draft the liquidation and distribution account for submission to the Master.

Step 5. Determination of method of liquidation

There are no hard and fast rules as to the method of liquidation which must be used. Each estate must be dealt with on its own merits. The method will be determined by a number of factors, such as the wishes of the deceased as expressed in his will, the solvency of the estate, whether there is sufficient cash in the estate to pay the estate debts, etc.

Step 6. Drafting the Liquidation and Distribution Account

Once all the information pertaining to the estate has been obtained, the executor must draft a liquidation and distribution account, which must be submitted to the Master. The account is an account of the administration of the estate by the executor and is of particular importance to the interested parties who wish to scrutinise what the executor has done. The account must be lodged within 6 months of the executor's appointment and it must be in the prescribed form.

Step 7. Queries by the Master

Upon submission of the liquidation and distribution account, the Master will examine it as to form and content. The Master will then issue a query sheet containing *inter alia* preliminary requirements. These preliminary

requirements will have to be complied with before he will accept the account as being correct.

Step 8. Advertising the account for inspection

Once the Master is satisfied that the account has been correctly drawn, the executor must give notice by advertisement in the Government Gazette and in one or more newspapers that the account will be lying for inspection for the period of 21 days. During this inspection period the account is made available to interested parties who wish to scrutinise the account. If any interested party is dissatisfied, he or she may object to the account in terms of Section 35(7) of the Administration of Estates Act, No. 66 of 1965, as amended.

Step 9. Finalisation of Estate after the inspection period

Once the account has lain for inspection free from objection, or if the objections have been disposed of in the prescribed manner, the executor must give effect to the account by settling the remaining debts, paying out the heirs, transferring the property into their names, etc

Step 10. Final requirements

After having given effect to the account, the executor must lodge the Master's final requirements with the Master. These include the lodging of heirs' acquittances, receipts by creditors, proof of transfer of fixed property, the lodging of a complete set of bank statements and paid cheques, proof of payment of Master's fees, proof of payment of estate duty, if applicable.

It is at this stage that the executor may debit his fees.

The final requirements must be lodged with the Master within 2 months after the estate becomes distributable, i.e. expiry of the inspection period free from objections or disposal of the objections.

Step 11. Final Notice

Once all the Master's requirements have been complied with, he will issue a filing notice stating that the estate has been finalised. This serves as proof to the heirs and family members that the estate has been finalised.

*If you desire any clarification or further information, you are welcome to contact attorney **Clive Valentine** personally. Contact details are given at the commencement of this note.*



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