

CAPITAL
LEGACY

A close-up photograph of a person's hands holding a black and gold fountain pen over a document. The document contains various charts, including a pie chart and a bar chart, along with some text. The person is wearing a white shirt. The background is blurred, showing what appears to be a desk or office environment.

**ADMINISTRATION OF ESTATES
PROCEDURES AND PROCESSES**

HIGH VALUE ESTATES

A deceased Estate will only come to existence once a person dies leaving a document that is intended to be his Will. The Estate will then be administered according to the Will under the Administration of Estates Act 66 of 1965. If there is no Will, then the Estate will be administered according to the Intestate Succession Act 81 of 1987.

PROCEDURE

The procedure to wind up an Estate that we need to follow is determined by Administration of Estates Act 66 of 1965 which provides the rules relating to the liquidation, distribution and administration of the Estates of deceased person. The following procedures will have to be followed from the death:

-  Reporting the Estate
-  Obtaining Letters of Executorship or Letters of Authority.
-  Opening an Estate bank account
-  Advertising the Estate
-  Attending to Liquidation and Distribution account
-  Distribution of the Estate
-  Closure of the Estate

PROCESS

Upon the death of the testator/deceased, a family member or anyone concerned will contact our offices or send an email to new.estates@capitallegacy.co.za and the department dealing with the Executorship for the deceased Estate will contact the family. We will then require documents to be produced and signed.



REPORTING THE ESTATE

As soon as possible after the death, a death notice has to be completed by the surviving Spouse, nearest blood relative, or person who identified the deceased. Master of the High Court, will oversee the winding up of the deceased Estate, including the financial affairs of the deceased and the interest of the Heirs, beneficiaries and creditors.

Jurisdiction of the Masters office is determined by:

1. Area where the deceased was resident (in South Africa) or owns immovable property. Currently the Masters offices are in Pretoria, Cape Town, Pietermaritzburg, Grahamstown, Bisho, Umtata, Bloemfontein, Kimberley, Mmabatho/Mafikeng, Johannesburg, Polokwane, Durban, Port Elizabeth and Thohoyandou;
2. If the deceased was not a resident at the time of death, it may be reported to any Master, provided that the Letters of Executorship has not been granted by any other Master; and
3. The Magistrates court does have service centres for the High Court but with limited jurisdiction. Reporting processes and documents required will differ depending on the value of the Estate.

REPORTING PROCESSES AND DOCUMENTS REQUIRED

Reporting processes and documents required will differ depending on the value of the Estate:

- Value of the Estate exceeds R250 000 – Letters of Executorship has to be issued.
- Death Notice
- Death Certificate (certified copy)
- ID of the deceased (certified copy)
- Acceptance of Trust as Executor in duplicate
- ID of the Executor (certified copy)
- Next of Kin affidavit
- Inventory
- Original Will (if applicable)
- Marriage certificate and Antenuptial contract and/or previous divorce orders/pre-deceased Spouse death certificate (certified copy)
- Declaration of marriage
- Declaration that the Estate was not previously reported
- Nomination of Executor (if no Will)
- ID of all Heirs who will inherit (certified copy)
- Value of the Estate below R250 000 – Letters of Authority has to be issued.

Letters of authority has to be issued, in terms of Section 18(3) of the Administration of Estates Act 66 of 1965. The reporting documents include the above 13 items as well as a list of creditors, and proof of all assets and liabilities.

OBTAINING LETTERS OF EXECUTORSHIP

On written application by the person nominated in the Will (the Executor), the Master may grant Letters of Executorship to such person. The Letters of Executorship will be signed and sealed and handed to the Executor. The liquidation and distribution of the Estate cannot commence without this.

If the value of any Estate does not exceed the amount (R250 000.00) determined by the Minister by notice in the Gazette, the Master may dispense with the appointment of an Executor and give directions as to the manner in which any such Estate shall be liquidated and distributed. Alternatively on application, by the Executor, the Master may grant letters of authority from the Masters office directly.

OPENING AN ESTATE BANK ACCOUNT

If the Estate has cash more than R1 000.00 in value, the Executor must then open a bank account in the name of the Estate and deposit all monies into that account. He may open a savings, or interest bearing account for money not required by the Estate immediately. The Executor shall inform the Master of the details of that account. All payments must contain the payees name and reason for payment.

ADVERTISING THE ESTATE

Once the Letters of Executorship have been granted, the Executor must publish a notice in the Gazette and in one or more local newspapers:

1. Circulating in the district in which the deceased resided at the time of his death;
2. If at any time within the period of twelve months immediately preceding the date of his death he so resided in any other district, also in one or more newspapers circulating in that other district;
3. Or if he was not ordinarily so resident in any district in the Republic, in one or more newspapers circulating in a district where the deceased owned property.

This is to call upon all persons having claims against his Estate to lodge such claims with the Executor within such period (not being less than thirty (30) days) from the date of the latest publication of the notice.



ATTENDING TO LIQUIDATION AND DISTRIBUTION ACCOUNT

The Executor must include, all debts due to the Estate and still outstanding and all property still unrealised, and the reasons why such debts or property, as the case may be, have not been collected or realised. It must also include the applicable assets.

After the Master has examined the account and given permission to advertise, the Executor shall publish a notice in Government Gazette, local newspaper and Magistrates court to inform the public

Any interested person may lodge their objection with reasons in duplicate with the Master before the period for inspection is expired. The Master will then send the objection, with copies of documents to the Executor by registered post. The Executor will have 14 days from receipt to submit his comments to the Master. The Master may then direct the Executor to amend the account or may give such other direction in connection therewith as he may think fit. If the account is amended, again lie open for inspection.

DISTRIBUTION OF THE ESTATE

After the required period has passed, the Executor must then pay the creditors and distribute the Estate to the heirs according to the Liquidation and Distribution Account. A cash amount must always be reserved for SARS until final tax assessments are received.

The Executor must then lodge with the Master, all receipts and details of the creditors and Heirs and copy of title deeds or certificate by the registration officer or conveyancer. The Master will also accept the proof of payments to the creditor, or Heir, or an affidavit by the Executor declaring that the creditor, Heir or beneficiary was paid or received their share.

The Executor must, no later than 2 months after the Estate is distributable, pay to the Master, a deposit for the Guardians Fund on behalf of the persons entitled to it, for all monies that for whatsoever reason has not been distributed according to the account.

The Executor must then apply for a discharge from all responsibilities. He must submit proof that the Estate has been liquidated and distributed according to the Will or laws of intestacy, and the Liquidation and Distribution account. If the Master is satisfied, then he will issue a filing slip and discharge certificate to the Executor.



CLOSURE OF THE ESTATE

In support of this application, the Executor will submit to the Master the following:

- Proof of payment of Estate duty, capital gains, income tax
- Proof of payment of Masters fees
- Proof of payment of all liabilities
- Proof of deposit into the Guardians Fund
- Proof of payment of all inheritances
- Proof that all shares / business interests have been sold / transferred
- Proof of transfer of immovable property
- Complete set of bank statements
- SARS tax clearance certificate
- Return of the original letters of Executorship

Upon examination of the above documents, and the Master being satisfied that all requirements have been met, he will issue a filing slip releasing the Executor from office.



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