

ADMINISTRATION
OF DECEASED ESTATES
IN ZIMBABWE



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Reporting the death of the deceased

The death should be reported within fourteen days. The death should be reported to the Assistant Master if the death occurs in Bulawayo. If the death occurs in Harare or the district thereof, the death should be reported to the Master of the High Court. If the death occurs in any other district, the death should be reported to the magistrate for that district. The duty is imposed upon the nearest relative or connection of the deceased who is at or near the place of death, or the person who at or immediately after the death has the chief charge of the house in or of the place on which the death occurs.

Obtaining Letters of Administration from the Master of the High Court.

The letters of administration is the document provided by the Master's Office confirming that the appointed Executor can act as such over the deceased estate. In effect, it gives the appointed Executor the authority to deal with all aspects of the estate, in the same way that the deceased could have done whilst alive.

The duties of an Executor

An executor is appointed to attend to the finalisation of the deceased's affairs, in terms of the deceased's will or the laws of intestate succession, if there is no will.

He/she is required to collect / sell assets, settle liabilities, prepare a final accounting that is approved by the Master of the High Court, and distribute according to the final accounting.

Selling estate assets

As it is an executor's duty to award assets as they are found to the beneficiaries of the estate, if possible and unless otherwise directed, an executor cannot simply dispose of assets without the beneficiaries' consent to this.

For example, to be able to sell immovable property through an estate, the Master of the High Court has to approve the sale. One of the requirements of the Master of the High Court to a sale through an estate, is the written consent of the beneficiaries.

Placing advertisement in local newspaper and government gazette calling for creditors and debtors to lodge their claims within a period of 30 days from the date of the advertisement.

The advertisement is a formal mechanism that is put in place to ensure that creditors lodge their claims timeously with the executor and do not delay in advising the Executor of the amount due to them. Failure to respond within the 30 days, and more particularly before the expiration of the estate account advertisement, may have the implication that the claim may fall away.

Preparing and lodging the Liquidation and Distribution account with the Master of the High Court.

The executor is obliged to lodge an estate account within six (6) months of being given letters of administration. If an executor fails to lodge with the Master the account within six months, the Master or any person having an interest in such estate may at any time, after the expiration of six months from the day on which the letters of administration were granted to such executor, summon him to show cause before the High Court why such account has not been so lodged as aforesaid.

The estate account is an accounting of the assets and liabilities found in the estate at date of death. The account sets out the beneficiaries, all liabilities, administration expenses and what the beneficiaries will inherit from the estate. By lodging the estate account with the Master of the High Court, the Executor is proposing the liquidation and distribution as per that account. Obtaining approval of the correctness of the estate account from the Master of the High Court is an important step towards finalisation of the administration of the estate.

Obtaining the Master of the High Court's approval to proceed with the Administration after approving the estate account

Once the account is approved, the Executor is advised by the Master of the High Court that he may proceed to advertise the Estate account in terms of Section 52 (6) of the Act. The advert runs for a period of 21 days, and is available at the Master of the High Court's Offices or the local magistrates' area in which the deceased lived. It must run in the local newspaper as well as the Government gazette. Once this advert expires, and no objections are received the Executor can start the distribution process as set out in the distribution account. If there are any queries raised by the Master of the High Court, the executor should immediately attend to such queries to satisfaction of the Master. In many instances, the Master gives deadlines for the correction of the queries raised.

The distribution of the estate assets and payment of debts.

Provided the estate account has survived the advert period without objection to the account being received by an interested party, the executor may proceed with the distribution as per the estate account. At this time, the Executor can advise the conveyancers to start the transfer process to the beneficiaries.

Filing the matter of record with the Master of the High Court.

Once the executor has finalised the estate distribution, transferred the property to beneficiaries, sold assets and distributed the proceeds as per the estate account, settled all creditors claims and collected assets /investments from all debtors, finalised the tax issues and paid all beneficiaries their inheritances, he may apply to the Master to approve that the matter be regarded as filed of record. The Executor should file all the documentary evidence of actual transfer of assets (fixed and movable), confirmation of payments of all administration expenses made from the date of commencement of administration until the date of distribution. Once the Master of the High Court is satisfied that the Executor has acted appropriately, he will advise the executor as such and record

that the file is closed. The Bonds of Security that will have been secured by the executor can be cancelled when such letter has been received from the Master.

Insolvent Deceased Estates

It can and does happen that when a person dies, it is found that their liabilities exceed their assets. This means that the estate is insolvent. These matters are dealt with in one of two ways as provided for in section 48 of the Administration of Estates Act, Chapter 6:01.

Either, the creditors allow the estate to be finalised under the Administration of Estates Act, meaning the appointed Executor can continue finalising the estate, interacting with the creditors for instructions on sale of assets etc, or the creditors can decide to use the provisions of the Insolvency Act, in which case he shall immediately take the necessary proceedings for having such estate placed under sequestration as insolvent.

Small estates

Where the value of the assets in an estate does not exceed a fixed amount, the Master may permit the administration on a basis which is not as strict as that of a larger estate.

Estates subject to customary law

Estates subject to customary law are governed by the provisions of Part IIIA of the Administration of Estates Act, Chapter 6:01. Upon the death of a person who is subject to customary law, the Master summons the deceased person's family, or such members of the family as are readily available, for the purpose of appointing a person to be the executor of the deceased person's estate.

The Master with the concurrence of the relatives present at a meeting summoned shall appoint a person to be the executor of the estate of the deceased person. If the relatives are unable to agree upon a person to be appointed as executor, the Master is authorised to appoint a suitable person as an executor. The executor shall have the powers of any other executor.

After the discharge or settlement of any legitimate claims against his estate, the executor draws up a plan providing for the conservation and application of the net estate for the benefit of the beneficiaries, the distribution of all or any part of the net estate to the beneficiaries, the sale or disposal of any property of the net estate for the benefit of the beneficiaries and the maintenance of any beneficiary. The executor is obliged to consult the deceased person's family and the beneficiaries and where possible obtain their agreement.

As soon as possible after drawing up the inheritance plan, the executor shall submit it to the Master for approval. The Master should ensure that the executor has consulted all the members of the deceased's family and beneficiaries whom he could with reasonable diligence have consulted, has obtained the beneficiaries' agreement to the plan and that the beneficiaries who have agreed

to the plan have done so with full knowledge and understanding of their rights.

If the Master is satisfied, the Master approves the plan and authorize the executor to distribute or administer the estate in accordance with it.

If there is any dispute concerning the inheritance plan, the Master will determine any such issues in dispute between the executor and the beneficiary or beneficiaries, and shall direct the executor to distribute or administer the estate in accordance with his determination.

The Estate process timeline

On Death	<p>Family to arrange:</p> <ul style="list-style-type: none"> • Funeral • Obtain Death certificate from the Registrar of Deaths • Determine if there is a will and where it can be found 	1 to 2 Weeks
Meeting with the Executor (if one is appointed in the will)	<p>At the meeting, the appointed Executor will:</p> <ul style="list-style-type: none"> • Review the Will. • If no Will, explain the applicable law. • Determine the Beneficiaries to the Estate. • Obtain from the beneficiaries their contact details and other documents. • Determine and record the preliminary details around nature /location of Assets/Liabilities, amounts payable under Insurance policies and Pensions. • Complete the relevant forms as required to report the matter to the Master of the High Court. • Death should be reported within 14 days of death 	2 to 6 Weeks
Appointment as Executor	<p>The Executor must:</p> <ul style="list-style-type: none"> • Comply with the requirements of the Master of the High Court when lodging the documents covered above, to obtain Letters of administration from the Master of the High Court, which appointment document allows the Executor to act for the estate. 	6 Weeks
Advertise for Debtors and Creditors	<p>The Executor must:</p> <p>Unless directed otherwise, the Executor is required to place an advert, advising of death as follows:</p> <ul style="list-style-type: none"> • In a local paper. • In the Government Gazette. • Advising of the death and requesting any Debtors or Creditors to lodge their claim within the 30 day advert period. 	<p>5 Weeks</p> <p>Approx. 3 Months</p>

<p>First and Final Liquidation & Distribution Account (commonly referred to as the Estate account)</p>	<p>The Executor must: Unless directed otherwise, the Executor must lodge an accounting of the Estate, within 6 months of being appointed Executor, for approval by the Master of the High Court, as follows: The account must be in the prescribed format. It must include various sections including, but not limited to:</p> <ul style="list-style-type: none"> • The Assets and Liabilities in the Estate. • The amount of Cash available for Distribution. • Detailing whom the Beneficiaries are and each will inherit. • Incorporating all income and Expenditure received by the Executor, from date of death to date of the account. • A calculation to determine whether Estate Duty is payable by the estate or any other parties. • Executors comments where applicable. • An Executors certificate in the prescribed format. 	<p>4 to 6 Months</p>
<p>Confirmation from the Master of the High Court to proceed</p>	<p>The Master of the High Court: Will check the estate account to ensure it meets the requirements of the Act, and will issue a document, either querying the account, or confirming that the Executor may proceed to advertise the account in the prescribed manner.</p>	<p>1 Month 5 to 7 Months</p>
<p>Advertise the First & Final Liquidation & Distribution account for inspection</p>	<p>The Executor must: Unless directed otherwise, the Executor is required to place an advert,</p> <ul style="list-style-type: none"> • In a local paper • In the Government Gazette • Advising that the account is lying for inspection as per the above, and that any interested party that may wish to lodge an objection to the account, must do so within the 21 day period. 	<p>1 Month 6 to 8 Months</p>
<p>Distribute the Estate</p>	<p>The Executor: Once the above advert has expired, with no objections lodged, the Executor can start to distribute the assets in the estate after settling the liabilities':</p> <ul style="list-style-type: none"> • Prepare a cash reconciliation statement • Obtain Tax clearance • Pay creditors • Pay cash legacies. • Arrange transfer of Fixed properties and other assets awarded to Beneficiaries. • Recover Fees. 	<p>Approx . 9 Months</p>
<p>Filed off Record with Master of the High Court</p>	<p>The Executor interacts with the Master of the High Court to obtain confirmation that the Estate has been finalised: Once the Estate is distributed, the Executor needs to provide the Master of the High Court, with evidence of:</p> <ul style="list-style-type: none"> • Proof of payment of Creditors • Proof of transfer of Fixed Property • Proof of Inheritances paid to beneficiaries. • Copies of all Bank statements to date closed. 	<p>1 Month 10 to 12 Months</p>