

# ESTATE INFORMATION – AFTER DEATH GUIDE, DOCUMENTS & PROCESS



## 1. Introduction

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The death of a loved one is one of the most devastating events in a person's life. Survivors must cope with more than grief, they also must deal with crucial financial matters.

No one likes thinking about that day, but being prepared will ensure that you and your family can mourn a loved one without getting caught up in the administrative drama after death. This guide is intended to assist you in the difficult days, weeks and months that follows the death of a loved one.

Please remember that this is a general guide, not necessarily a comprehensive list. Contact Ascior® to discuss your individual circumstances. We will assist you in drawing up a Will (if you do not already have a Will) and complete an Estate Directory. This is a comprehensive document that contains all the relevant information about you and your spouse.

## 2. Reporting and registering the death

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- |   | Check                    |
|---|--------------------------|
| • Contact the family doctor or hospital about obtaining the Medical Certificate for 'Cause of Death'.   | <input type="checkbox"/> |
| • Contact a Funeral director to transport the deceased from the place of death (if death did not occur at hospital) to the nearest State Mortuary.<br>The deceased will have to be formally identified at the mortuary prior to the release of the body to the Funeral Director.  | <input type="checkbox"/> |
| • The Births & Deaths Registration Act requires that a person's death be reported to the Department of Home affairs or SA Police Service as soon as the family gets a medical certificate from the doctor.  | <input type="checkbox"/> |
| • Complete the form BI-1663, 'Notification of Death' when reporting the death.<br>The following people must complete different sections of the form:<br>Person reporting the death, Medical practitioner, Home affairs officer or member of SA Police.  | <input type="checkbox"/> |
| • The 'Registrar of Births & Death' will give you a Death Report (Form BI-1680) that will be issued after the death has been registered, together with a burial order (Form BI-14)  | <input type="checkbox"/> |
| • The Department of Home Affairs will issue a 'Death Certificate' on receipt of the 'Notification of Death' and the 'Death Report' together with an 'Abridged Death Certificate' on the same day (BI-132) of registration of death. NB! Make sure that the following details on the Death Certificate is correct, ID number, spelling of the deceased's names and surname, and marital status. If there are mistakes on the certificate it needs to be corrected at Home Affairs before the Executor can register the estate with the Master of the High Court. | <input type="checkbox"/> |

- The Executor needs several copies (20) of the Death Certificate stamped and certified by a Commissioner of Oaths. Every instruction given and transaction done on behalf of the deceased will need to be accompanied by a certified copy of the death certificate.

### 3. Planning the Funeral

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- |  | Check                    |
|--|--------------------------|
| <ul style="list-style-type: none"> <li>• The funeral should be planned around the wishes of the deceased, stipulated in his/her will.<br/>The responsibility for funeral arrangements and determining the deceased last resting place normally falls on the closest next of kin or the persons named as heirs in the deceased's will</li> </ul>                              | <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• If the deceased was religious, one should contact the deceased's place of worship to find out what funeral services they offer.</li> </ul>  | <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• A reputable Funeral Director will do everything from obtaining the 'Death Notice and Certificate', supplying one with the original and the necessary certified copies, organizing death notices in newspapers, to cemetery or crematorium arrangements, catering and florist arrangements, printing of hymn sheets, etc.</li> </ul> | <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• What to take with you to the Funeral Parlour:<br/>A copy of the deceased's ID; Next of kin's ID, Funeral Policy and marriage certificate, A photo of deceased for hymn sheets; clothes for the deceased to be dressed in.</li> </ul>  | <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• Most funeral parlours require payment upfront. If the deceased had a funeral policy, that should be handed over to the Funeral Director for him to verify.</li> </ul>   | <input type="checkbox"/> |

### 4. People who need to be informed

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- |   | Check                    |
|---|--------------------------|
| <ul style="list-style-type: none"> <li>• All family members and friends should be notified about the death</li> </ul>   | <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• Notify the deceased's Employer</li> </ul>  | <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• The deceased's Will should have information about the wishes of the deceased, and the necessary steps should be taken to contact people mentioned in the Will</li> </ul> | <input type="checkbox"/> |

### 5. Reporting and registering the Estate

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The Executor appointed in the Will should be informed and contacted. If the deceased did not nominate an Executor, the Master of the High Court will appoint an executor. The person appointed as Executor may also appoint an Agent to assist with the administration of the estate.

The following lists the steps needed to be taken to register the Estate and the information and documents required.

Documents and information required for registration:

- |  | Check                    |
|--|--------------------------|
| <ul style="list-style-type: none"> <li>• Identity Document (ID) of deceased</li> </ul> | <input type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• Death Certificate</li> </ul>                  | <input type="checkbox"/> |

- Will (NB! must be original)
- Marriage Certificate
- Antenuptial Contract if Married Out of Community of Property
- Divorce order and settlement agreement (if applicable)
- Identity Documents/Birth Certificates/information of next of kin and heirs
- Death Notice (J294) \*
- Next of Kin Affidavit (J192) \*
- Inventory form (J243) \*
- Declaration of Marriage\*
- Declaration of Non-reporting\*
- Nomination to act as Executor\*
- Acceptance of Trust as Executor (J190) \*
- Undertaking and Acceptance of Master's Directions (J155) \*
- Undertaking and Bond of Security (J262) (if applicable) \*
- Affidavit i.r.o. unnatural death (if applicable)
- Certified copy of the appointed Executor's ID document
- List of known creditors and liabilities of the deceased
- Income tax reference number

\* Forms available from Ascor® or the Master of the High Court's website.

Please note that not all the forms are relevant to every estate, eg. when the gross value of an estate is over R250,000, the J190 must be completed, but not the J155. Speak to us, we will assist you to determine what is required.

To complete the Inventory form (J243) the following information is also required:

- |  | Check                    |
|--|--------------------------|
| • List of all immovable property (full descriptions) and property values   | <input type="checkbox"/> |
| • List of all policies that pays out on the life of the deceased and values  | <input type="checkbox"/> |
| • List of all movable property (full descriptions) and values  | <input type="checkbox"/> |
| • List of all money assets e.g. bank accounts, investments etc. (full descriptions) and values / balances.                     | <input type="checkbox"/> |
| • List of all claims in favour of the estate e.g. any money owing to the deceased such as loans (full descriptions and values) | <input type="checkbox"/> |

- List of any business assets, shares (listed and unlisted), held by the deceased (full descriptions and values)

## 6. Administration of the Estate

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Following the registration of the Estate with the Master of the High Court, the Executor will proceed to administer the estate. This process will include the opening of a bank account in the name of the estate, closure of bank accounts in the name of the deceased, the submission of death claims to life insurance companies, submission of outstanding tax returns, the selling and / or transfer of property to heirs, payment of creditors etc.

The process concludes once all the deceased's creditors have been paid, all the assets have been accounted for and paid out or transferred to heirs, and a final account has been submitted to the Master of the High Court. The Master will then issue a filing notice to confirm that the estate has been finalized. All processes must be done in accordance with the Administration of Estates Act 66 of 1965 and various other relevant acts dealing with tax, property, agricultural property, insolvency in some cases, companies, etc.

The following are some of the documents and information that will be required by the Executor / Agent in order to administer the estate:

- |   | Check                    |
|---|--------------------------|
| • Employer's details  | <input type="checkbox"/> |
| • Pension details/benefits  | <input type="checkbox"/> |
| • Last Income tax assessment or copy of previous return   | <input type="checkbox"/> |
| • Any statement or correspondence relating to the financial affairs of the deceased   | <input type="checkbox"/> |
| • Bank books and ATM cards, unused cheques/cheque books, credit and debit cards   | <input type="checkbox"/> |
| • Deeds of transfer of any fixed property   | <input type="checkbox"/> |
| • Lease Agreements  | <input type="checkbox"/> |
| • Recent consumer accounts (municipal, telephone etc.)  | <input type="checkbox"/> |
| • Information regarding any mineral rights owned by the deceased  | <input type="checkbox"/> |
| • Valuations for immovable property   | <input type="checkbox"/> |
| • Valuations for furniture and personal possessions may be required   | <input type="checkbox"/> |
| • Vehicles registration certificates, log books and insurance details   | <input type="checkbox"/> |
| • Firearm licenses  | <input type="checkbox"/> |
| • Any documents regarding building societies, banks, savings accounts, bonds and receipts in favour of the deceased.  | <input type="checkbox"/> |
| • Any documents and shares certificates regarding listed shares and unlisted shares, receipts from Central Securities and buy-and-sell agreements in respect of the deceased's business affairs | <input type="checkbox"/> |

- Life insurance, endowment and retirement annuity contracts. NB! Some insurance providers require a certified copy of the death notice (BI-1663 / DHA-1663) to be submitted with the claim forms.
- Short-term insurance schedule
- Doctor's accounts and / or statements
- Medical aid information – membership card or claim advice
- Any details regarding debts, mortgage bonds, overdrafts, outstanding loans and accounts due on date of death.

Following here is a summarized explanation of the administration procedure:

- 6.1 Registration of the Estate  
Once the Executor / Agent to the Executor has received all the required registration documents, it will be submitted to the Master of the High Court. The Master will then issue a Letter of Executorship (or Letter of Authority if the gross value of the estate is less than R250,000).
- 6.2 Advertisement of the Notice to Creditors in the Government Gazette and local newspaper.  
Once the Letter of Executorship has been received, a notice will be placed in the Government Gazette and a newspaper local to the area where the deceased resided prior to death, to inform creditors of the estate and to whom they can submit any claims against the estate.
- 6.3 Preparation and submission of the Liquidation and Distribution Account  
Once the notice period expires, the Liquidation and Distribution Account will be prepared and submitted to the Master of the High Court. The Liquidation account will show all the details of all the assets in the estate as well as the creditors and costs of administration. The Distribution account will show how the estate is distributed amongst the heirs and legatees.
- 6.4 Advertisement of the Liquidation and Distribution Account lying for inspection in the Government Gazette and Local newspaper.  
Once the Master has approved the Liquidation and Distribution account, a second set of advertisements will be placed. The Liquidation and Distribution account will lie for inspection at the Master's office and the Magistrate's office for a period of 21 days during which time creditors and interested parties may view the account and raise any objections.
- 6.5 Distribution of assets and residue.  
Once the inspection period is over, the Executor / Agent will proceed to pay any creditors whose accounts are still outstanding, transfer any assets to beneficiaries, pay any costs still payable and finally transfer the residue to the heirs in terms of the Will.
- 6.6 Submitting the final account and obtaining a filing notice from the Master.  
Once all the Master's requirements have been met, a final account will be submitted with all the required proofs and vouchers and the Master will then issue a filing notice.

Estate Administration checklist

- Register the estate with the Master of the High Court and obtain the Letter of Executorship
- Advertise the Estate so that creditors can lodge claims against the Estate. Advertisement must be placed in the Government Gazette and a local Newspaper. Creditors have 30 days to lodge any claims against the Estate.

- Check the deceased's bank account to find what monthly payments are being made. Pay up and close all these accounts e.g. Credit cards, petrol cards, gym membership, DSTV, clothing accounts etc.
- Close the deceased bank account and open a current account called "Estate Late" followed by the deceased's name. All investments will be paid into this account and all creditors and beneficiaries will be paid from this account
- Prepare the "Liquidation and Distribution Account" (L&D account) this can take from 6 weeks to 6 months depending on the size of the Estate. The L&D account includes all the assets and liabilities in the Estate at the date of death, as well as the income and expenditure incurred by the Estate.
- Depending on the size of the Estate, Capital Gains Tax can be realized. A Tax consultant should perform the calculation. The Executor submits the L&D account to the Master of the High Court, and the final tax return to SARS at the same time.
- Once the Master of the High Court has given approval, the account must be advertised in the Government Gazette and in a local newspaper and made available for inspection for 21 days at the Master's office and the Magistrates office in the district. The heirs should have the opportunity to review the account before it is finally submitted to the Master.
- If no objections are lodged against the L&D account, the Master will confirm that the Executor may distribute the assets to the beneficiaries
- SARS must release the estate and this will only be done once SARS is satisfied that all outstanding taxes have been paid and all obligations towards SARS have been met. SARS will issue a deceased estate compliance letter which is required to submit to the Master with the final account to obtain the filing notice
- Creditors must be paid before the residue of the estate can be distributed to heirs.
- After the Liquidation and Distribution account has laid for inspection and no objection was lodged against the account, the Executor / Agent will proceed to transfer any fixed and movable property to the heirs / legatees. The Executor / Agent will prepare a final cash reconciliation after all costs and liabilities have been paid and any cash residue will be paid out to the heirs.
- Once the Executor has provided the Master with proof that all the creditors have been paid and the assets have been distributed, the Master signs off the Estate and the Executor's task is complete.

## 7. Firearms

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The Firearms Control Act 60 of 2000 along with Firearms Control Regulations, 2004 (jointly referred to hereafter as the Act), came into effect on 1 July 2004. It contains wide-ranging regulations about aspects including the handling of firearms as well as (spare) parts for them and ammunition in deceased estates.

It is important to note that if the deceased owned any firearms, there are very specific procedures that need to be dealt with. These procedures must be followed to the letter. If an heir holds an inherited firearm, great care must be

taken to make sure that all the documentation is correct and complete, otherwise the holder of the firearm will be prosecuted for holding an illegal firearm, which is a criminal offence with severe penalties.

The Act determines that an executor cannot finally wind up the estate before the Central Firearms Registry has confirmed to him that all firearms that were in the name of the deceased have been transferred.

#### Directly after death

An heir, next of kin or member of the deceased's family who has approved storage facilities for firearms must take the firearms of the deceased person into his possession and in terms of Section 21 of the Act immediately apply for a temporary permit to possess a firearm.

An application must be made on SAPS 518 and must be handed in to the relevant Designated Firearms Officer in the area where the applicant resides, with all relevant substantive documentation as prescribed by Regulations 13 and 23 of the Act. All documentation must be completed in black ink. In terms of Section 21 the temporary permit must be valid at least until the Letter of Executorship has been issued.

#### Notification of Estate

With notification of the estate to the nominated executor or the person who will administer the estate:

1. Provide full details of the deceased's firearms and ammunition so that an inventory can be drawn up with all the details as defined fully in Regulation 103(3)(a) of the Act.
2. Provide full details of the person who has the deceased person's firearms and ammunition in safekeeping, as well as whether such a person has a temporary permit, issued in terms of Section 21 of the Act. If such a permit was in fact issued, a copy must be submitted.

#### Action by the Nominated Executor

The nominated executor or his representative sends a letter to the Designated Firearms Officer as promptly as possible, after accepting the estate to establish whether the person who has the deceased person's firearms and ammunition in storage, is in fact a competent person., if no temporary permit has been issued.

The beneficiaries must give the executor written instructions regarding the firearms as soon as possible so that the process for the transfer of the firearms can start as soon as is practically possible, as it can be a time-consuming process.

#### Action by the Executor

After receipt of notification of the appointment as executor, the person who in terms of an appointment as executor issued by the Master of the High Court, acts as executor of the estate of someone who had a firearm in his possession, must take the necessary steps to ensure that the firearm and ammunition are stored safely in an approved storage facility as prescribed by Regulation 86 of the Act.

Where an heir holds a license, has authorization or a permit issued in terms of the Act, such an heir can qualify for the safe storage of the deceased person's firearm and ammunition, on condition that the executor does not have the required storage facility.

If the executor is satisfied that, according to the information at his disposal, the heir is competent to hold the deceased's firearms and ammunition in trust, the executor issues a letter of consent to the heir concerned for the storage of the firearms and ammunition. A copy of the letter of consent must be lodged with the Designated Firearms Officer of the area where the heir lives, with a request that he visits the person who has been given permission to keep the firearms in safe storage, to ensure that all the requirements as prescribed, are being complied with.

The permission must specify how long the person concerned may hold firearms in safe storage, the reason for the safekeeping as well as adequate details to enable identification of the license, permit or authorization and the firearm. The letter of permission must contain the name, identity number and physical address before death of the license-holder, and the same information in respect of the person to whom such permission has been given. The permission is for storage only and not for use.

If the executor does not have the necessary storage facilities, and there is also no competent beneficiary who can take the firearms and ammunition into safekeeping, arrangements must be made with a licensed firearms dealer who has storage facilities closest to where the firearms and ammunition are held, for storage of the firearms. Costs related to this currently amount to between R35 and R65 per firearm, per month, and the storage costs are for the estate's account. The same also applies where a firearm carrier/conveyer must be used for the transport of the firearms. Only the person who holds a license, or has a permit or authorization to possess the firearm may transport that firearm to and from the place where the firearm is safely stored.

#### Notice to Registrar

Within 14 days of receipt of notification of appointment of executor, the Registrar of Firearms must be provided with the following documents and information:

- Inventory as referred to above
- Name of the deceased and the physical address at which he resided before death
- Address at which the firearms are stored
- A copy of the executor's letter of permission to the heir for storage of the firearms and ammunition, if applicable
- Copy of the death certificate
- Copy of the Letter of Executorship
- Names, addresses and identity numbers of all the beneficiaries if the firearms and ammunition must be transferred per testamentary stipulations or law of intestate succession.

The Registrar will then record the details in the Central Firearms Register and acknowledge receipt thereof within 30 days of receipt.

At least every three months the executor must inform the Registrar in writing of the progress and the steps taken to transfer such firearms and ammunition, with details of the person/persons to whom these items are transferred.

As soon as the solvency and liquidity of the estate has been established, the heir is given possession of all the documentation from the executor for transfer of the firearm. This documentation includes a properly completed SAPS 271, a copy of the executor's letter and permission for the transfer of the firearm. A copy of the permission must be sent to the Central Firearms Registry for information. As the application for a firearm license can be a long and time-consuming process, it is critical that the heir commences the process immediately. All documentation must be completed in black ink.

In the case of firearms that belonged to a deceased person but which cannot be traced by the executor, next of kin or heir, the matter must be taken up with the SAPS. SAPS 521 must be completed and the process for stolen or lost firearms must be followed.

## **8. Conclusion**

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The administration of a deceased estate can be a lengthy and complicated process which can take anything from a few months to a few years to complete. It is always advisable to appoint someone knowledgeable in the various applicable



