



## **CHIEF MASTER'S DIRECTIVE 3 OF 2015**

### **INTERPRETATION OF INCREASED JURISDICTION**

#### **1 PURPOSE**

The purpose of the directive is to ensure a uniform approach by Masters and give guidance to public and the industry in respect of the matters listed below.

#### **2 MOTIVATION/BACKGROUND**

2.1 In terms of the provisions of Regulations 920 and 921, both advertised in the Regulation Gazette No. 10320 of the Government Gazette no.38238 dated **24 November 2014**, the following has been determined:

- i. the amount, for purposes of Intestate Succession Act 81 of 1987, has been increased from R125 000 to R250 000, in respect of estates where the deceased passed away on / after 24 November 2014 and
- ii. the amounts for purposes of sections 18(3), 80 and 90 of the Administration of Estates Act, 1965 (act no. 66 of 1965), has been increased to R250 000.

2.2 In view of these adjustments the jurisdiction of Service Points has also been increased from R50 000 to R125 000, in respect of new estates **reported on/after 2 December 2014**. (*Justice Circular 117 of 2014 dated 2 December 2014*)

2.2.1 At Service Points where the new ICMS Masters Deceased Estates (PEAS) has been rolled out, the jurisdiction has been increased from R50 000 to R250 000, in respect of new estates **reported on/after 2 December 2014**. (*Justice Circular 117 of 2014 dated 2 December 2014*)

2.2.2 The limitation on jurisdiction in estates where there is cash in excess of R20 000 and there are minors involved, is no longer applicable at Service Points where the new ICMS Masters Deceased Estates (PEAS) has been rolled out and the appointment is approved by the Assistant Master of the relevant High Court. (*Justice Circular 21 of 2015, dated 3 March 2015*)

2.3 The amount, for purposes of Intestate Succession Act 81 of 1987, has also increased from R125 000 to R250 000, in respect of estates where the deceased **passed away on / after 24 November 2014**.

2.4 A number of role players have raised concerns regarding the difference in interpretation of the implementation of the abovementioned increased jurisdiction amounts by various Master's Offices

As part of my statutory obligations I have decided to provide the following guidelines to ensure a uniform approach to the matter raised:

### **3 Administration of Estates Act 66 of 1965**

#### **3.1 Section 18(3)**

- i) Dispense with appointment of executor, if value of estate does not exceed R250,000 (increased from R125,000)
- ii) The new amounts should be applied in matters where the estate has been reported on / after 24 November 2014 AND /OR
- iii) If an estate (value is above R125 000, but not exceeding R250 000) was reported prior to this date, but the appointment has not been issued yet, the benefit must be given to public and the matter be dealt with in terms of Section 18(3).

#### **3.2 Section 80**

##### **i) Sec 80(2)(a)**

Master may authorize alienation of immovable property up to R250,000 (increased from R100,000) belonging to a minor or to a person for the administration of whose property a tutor or curator has been appointed;

##### **ii) Section 80(2)(b)**

Master may authorize any mortgage of any such immovable property to an amount not exceeding R250,000 (increased from R100,000) in the case of any one such minor or person

- iii) The new amounts should be applied in matters where the **decision in question is made on / after 24 November 2014, irrelevant of the date of application.**

#### 3.4 Section 90(1) (Guardian's Fund)

- i) The Master may, subject to subsection (2) and subject to the terms of any will or written instrument disposing of the money or, in the case of a tutor or curator, by which the tutor or curator has been nominated, pay to the natural guardian or to the tutor or curator, or for and on behalf of the minor or other person concerned, so much of any moneys standing to the credit of the minor or other person in the guardian's fund as may be immediately required for the maintenance, education or other benefit of the minor or other person or any of his dependents, or for any purpose referred to in subparagraph (i), (ii) or (iv) of paragraph (c) of the proviso to section 82, or for any investment in immovable property within the Republic or in any mortgage over such immovable property on behalf of the minor or other person, approved by the Master: Provided that, subject to the terms of any such will or instrument, the aggregate of the payments made in the case of any minor or other person for purposes of maintenance, education or other benefit shall not, without the sanction of the Court, exceed R250,000 (increased from R100,000) of the capital amount received for account of the minor or other person concerned.
- ii) The new amounts should be applied in matters where the **decision in question is made on / after 24 November 2014 irrelevant of the date of application.**

**4. Increased amounts succession and administration of estates - Intestate Succession Act 81 of 1987**

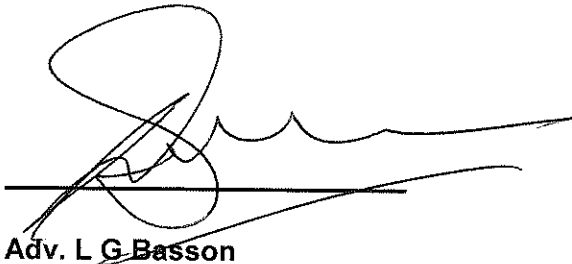
**4.1 Section 1(1)(c)(i)**

- i) If the deceased is survived by a spouse as well as a descendant the spouse inherits a child's share of the intestate estate or so much of the intestate estate as does not exceed R250, 000 in value (increased from R125, 000) whichever is the greater.
- ii) This will apply to estates where the deceased passed away on / after 24 November 2014.

**5. EFFECTIVE DATE**

This Directive will come into effect as **from the date of signing** hereof.

Signed on ..... 17/ 8/ ..... 2015



Adv. L G Basson

**Chief Master of the High Court of South Africa**