



THE FIDUCIARY INSTITUTE OF SOUTHERN AFRICA



ESTATE PLANNING TRUSTS WILLS ESTATES BENEFICIARY FUNDS

How long does it take to wind up an estate?

The answer to this question is as difficult as the answer to “how long is a piece of string?” But as a rough guide one could say a deceased estate can take anything from five months (which is almost impossible), to several years to finalise.

The time required depends largely on the size and structure of the deceased person's assets and liabilities.

In the case of an estate smaller than R250,000, the process is fairly simple and an executor is not appointed, but a person - usually a family member - is authorised by the Master of the High Court to pay and collect debts and distribute the assets of the deceased to the heirs.

This leaflet deals with estates valued at more than R250,000, in which case an executor needs to be appointed. This person will:

- apply for letters of executorship to be issued to him/her by the Master of the High Court; and
- when this is issued, take control of all assets of the deceased;
- close the deceased's bank accounts;
- advertise for debtors and creditors;
- pay creditors;
- draft a liquidation and distribution (L&D) account; and
- distribute the deceased's assets in accordance with the provisions of the will and as set out in the L&D account.

The time taken to wind up an estate will be influenced by the service levels the executor of the estate experiences when dealing with various institutions such as the office of the Master of the High Court, SARS, financial institutions and the deceased's employer.

The following are rough guideline time lapses that cannot be avoided:

Action

| | |
|---|--|
| From death to reporting the death to the Master of the High Court and handing in the will | |
| Waiting for the Master to issue letters of executorship to the executor | |
| Placing the advertisement for debtors and creditors | |
| Advertisement time period | |
| Time to finalise drafting the account and lodging with the Master | |
| Waiting for approval from the Master | |
| Preparing to advertise the account | |
| Advertisement period | |
| Distribution of assets | |
| Final requirements and final cash pay-out to residual heirs | |
| TOTAL | |

The Administration of Estates Act, 1965, also prescribes certain processes which carry compulsory time periods. The two main ones are:

- the advertisement period for debtors and creditors
- the inspection period during which the estate account must be available for inspection at the relevant Master's Office.

In the first case the advertisement advising debtors and creditors of the deceased to pay their debts and lodge their claims must appear on the same day in both the Government Gazette and a local newspaper in the area where the deceased lived. The advertisement must state that the debtors and creditors have 30 days in which to take action. Before this time period expires, the executor cannot finalise the estate account.

The account must then be lodged with the Master, be examined and approved by the Master, and another advertisement then placed in the Government Gazette and a local newspaper advising all interested parties that the account is available for inspection at the Master's office for a period of 21 days. All of this can only be done by the executor once s/he is appointed, which can take time.

Sometimes, due to a complex asset structure or tax issues, several successive accounts will have to be drawn before the estate can be finalised.

| | Shortest possible time (days) | Time if delays are experienced (days) |
|--|-------------------------------|---------------------------------------|
| | 2 | 21 |
| | 2 | 90 |
| | 7 | 14 |
| | 30 | 44 |
| | 7 | 60 |
| | 14 | 90 |
| | 7 | 14 |
| | 21 | 28 |
| | 30 | 180 |
| | 30 | 180 |
| | 150 | 721 |