

Presentation to FISA

Master of the High Court

SEPTEMBER 2018



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Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

1. Developments

1. Trust online
2. Bonds of security
3. Regulation 910
4. Filing notices and formal discharge

2. What are the challenges experienced by the Branch and how are they resolved?

3. Master's Priorities 2018/19

4. Complaints protocol

5. Statistics



Trust online

- Masters are currently working on a Master's Online project.
- It is envisaged that **Trust online services** will be implemented in the next financial year.
- This will streamline the Trust registration process and assist in curbing fraud as applicants will be able to lodge their applications online assisting with the workload of the Trust Sections as most information will be captured and scanned in by the applicants, freeing the Masters' hands to apply their minds thoroughly to the lodged documents and other clients.



Bonds of security

- Masters are currently working on creating uniform documents for Bonds of Security.
- Will be discussed and finalised with FSB.
- List of approved Insurance Companies and requirements will be issued to be added to the list.
- Insurance companies that refuse to pay out when a bond is called up, will be removed from the list.



Regulation 910:

- Reg. 910 was issued by the Minister of Justice by virtue of powers which vested in him by section 30 of **the Attorneys, Notaries and Conveyancers Act**.
- Main aim was to protect work for attorneys
- The Act was however repealed.
- Reg. 910 supposed to indicate who is prohibited, but actually indicates who may do estates, **but does not exempt any of those from lodging security.**



- **The Administration of Estates Act** provides for three categories of executors:
 - People permanently disqualified from administering estates (e.g. Master, Curatorship, criminal offence, caused the death)
 - People administering estates without security (e.g. exempted in will, spouse, direct family)
 - People administering estates with security (all other nominees / applicants)
- Both the Act and Reg. 910 nowhere provides for the appointment of an **agent** – only deals with appointment of an **executor / Masters representative**.



Risk of insisting on an agent:

- Master can not act against an agent – needs to act against the executor
- Master requests an agent but we do not verify acceptance of agent / ID of agent
- Fraud in offices and on estates (false wills, documents, kick-backs etc)
- Agents charge exorbitant fees from executor / beneficiaries
- Don't do their work and Master can do nothing
- Agent disappear with estates funds – no recourse / security to recall / accountability



Master accountable – creature of statute

WAY FORWARD

- 1) Recall Reg. 910 in totality
 - Get rid of any uncertainties / differ in opinion
- 2) Apply the Administration of Estates Act
 - i) People doing estates without security (e.g. exempted in will, spouse, direct family) – **Fingerprint verification, personally liable**
 - ii) People doing estates with security (all other nominees / applicants)
 - **security, if not able to obtain security – nominate someone who can to be appointed**
- 3) Chief Master's Directive:
 - Fingerprint verification
 - "Trusted executors" requirements



Filing notices and formal discharge

- Two different procedures:
 - **Filing notice**
 - Master issues it when all requirements on query sheet have been met
 - **Formal discharge**
 - Executor needs to apply and comply with CMD 3 of 2016
- REMEMBER – request that security be reduced.
 - Working on amending the filing slip to add a paragraph where the security are reduced by the Master.



Lodgement of query sheet requirements

- Lodge all requirements at once (All A-requirements, then all B-requirements etc.)
 - Reduce workload
 - Reduce post

PORTAL

- Technological challenges
- DHA offline
- Only shows system generated documents
- Verification of appointment letters
 - QR Code??



TRUSTS

- **Medical liability / RAF payments**
 - Creation of trusts in court orders to the detriment of the patients
 - In discussion with SIU, RAF, Law Society, State Attorney, Judge Presidents etc.
 - Lawyers and advocates are abusing the creation of Trusts.



HIGH PRIORITIES OPERATIONS /FUNCTIONS

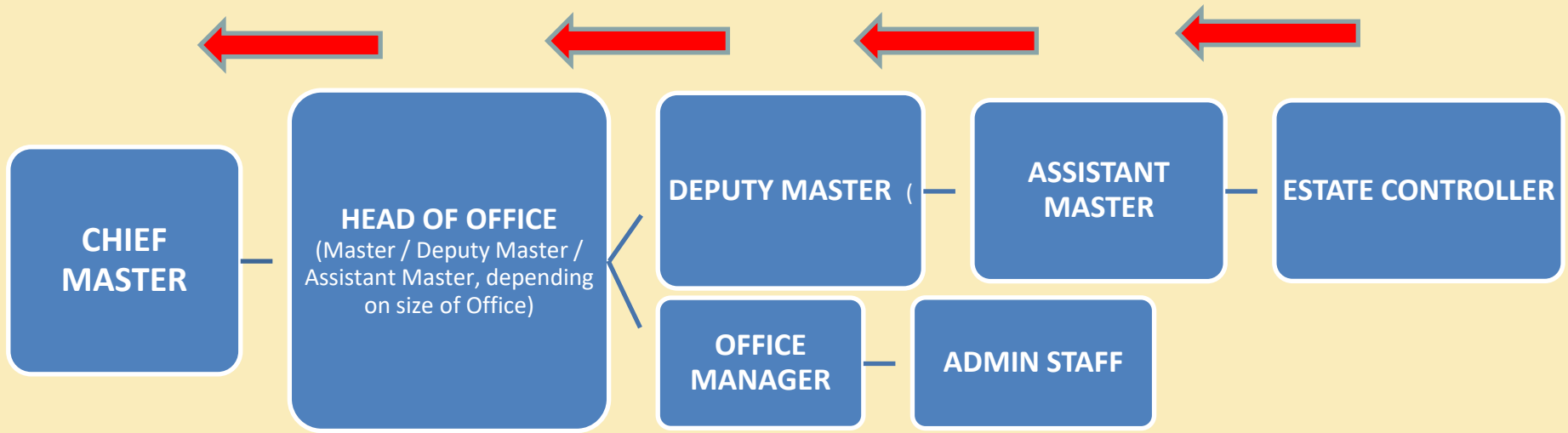
- i) Developing Trust online
- ii) Guardian's Fund
 - i) System enhancements and development
 - ii) Diminishing unclaimed funds – providing beneficiaries access to their funds
- iii) Deceased Estates – Regulation 910
- iv) Enhancing ICMS – Insolvencies
- v) Continuous training provided to Service Point officials on MOVIT and PEAS
- vi) Updating and maintenance of equipment (IT, Scanners, printers etc.)
- vii) Increased control measures by Masters' in Trusts
 - i) Amending the Trust Act



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COMPLAINTS PROTOCOL



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DEATHS REGISTERED

| | DEATHS(STATS SA) | ESTATES | % |
|------|-------------------|---------|--------|
| 2011 | 515427 | 170144 | 33.01% |
| 2012 | 493493 | 166049 | 33.65% |
| 2013 | 475510 | 162251 | 34.12% |
| 2014 | 474659 | 147 292 | 31.03% |
| 2015 | 460236 | 146779 | 31.89% |
| 2016 | 456612 | 152225 | |
| 2017 | | 154555 | |



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ESTATES REGISTERED WITH THE MASTER

| | ESTATES | Decline / Increase |
|------|---------|--------------------|
| 2011 | 170144 | |
| 2012 | 166049 | -2.41% |
| 2013 | 162251 | -2.28% |
| 2014 | 147292 | -9.21% |
| 2015 | 146779 | -0.35% |
| 2016 | 152225 | 3.71% |
| 2017 | 154555 | 1.53% |



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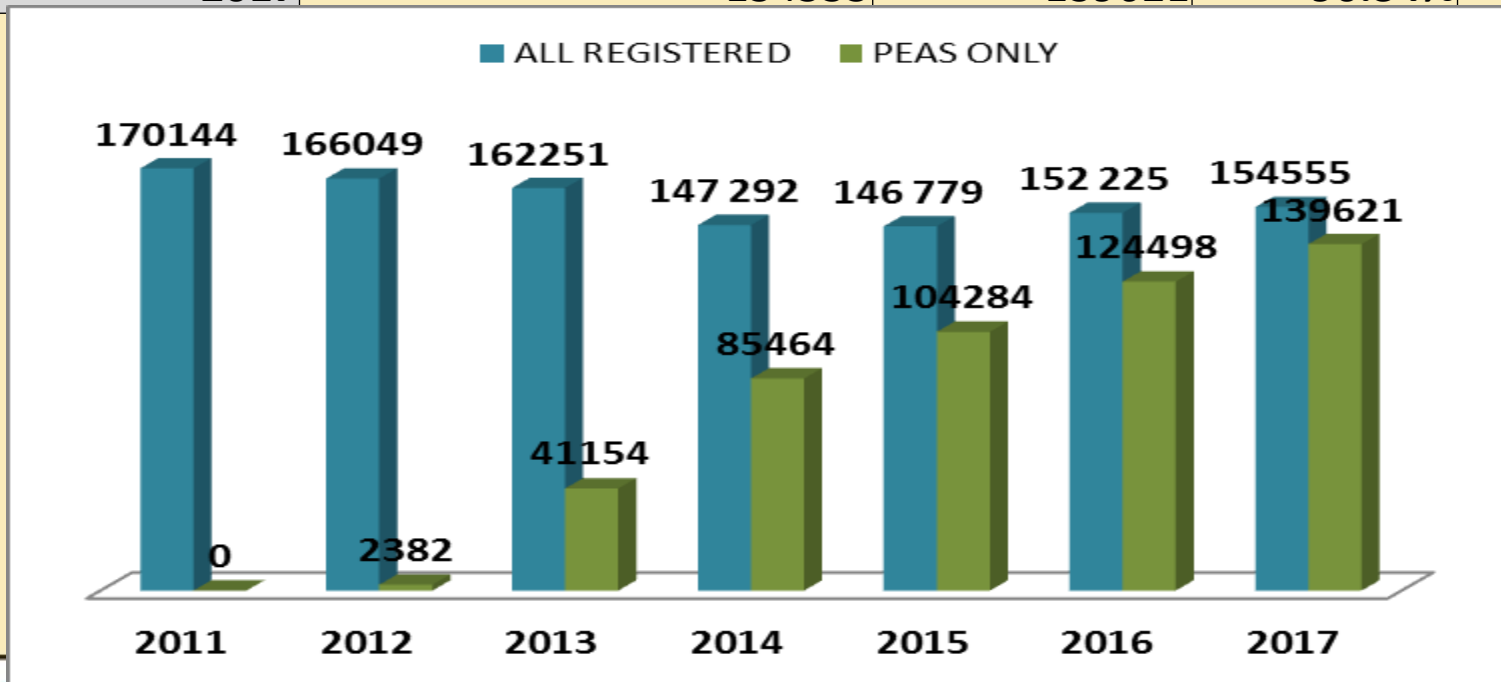
The Paperless Estates Administration System (PEAS)

- has successfully been rolled out and is being used by all 15 Masters' Offices country wide, as well as approximately 256 service points in total, to date.
- Rolling out to Service Points enables the Service Points to be linked with the relevant Masters' offices, who then are able to oversee the appointment process in the Service Points, and thus ensuring that the whole country receives the same service and are able to access the same quality of services provided directly at Master's Offices, without the need to travel long distances to the 15 Master's Offices countrywide.
- For the coming year the Branch is planning to roll out PEAS to at least 30 more Service Points of the Master.



DECEASED ESTATES - ICMS / PEAS

| | ALL REGISTERED | PEAS ONLY | % |
|------|----------------|-----------|--------|
| 2011 | 170144 | 0 | 0.00% |
| 2012 | 166049 | 2382 | 1.43% |
| 2013 | 162251 | 41154 | 25.36% |
| 2014 | 147 292 | 85464 | 58.02% |
| 2015 | 146 779 | 104284 | 71.05% |
| 2016 | 152 225 | 124498 | 81.79% |
| 2017 | 154555 | 139621 | 90.34% |

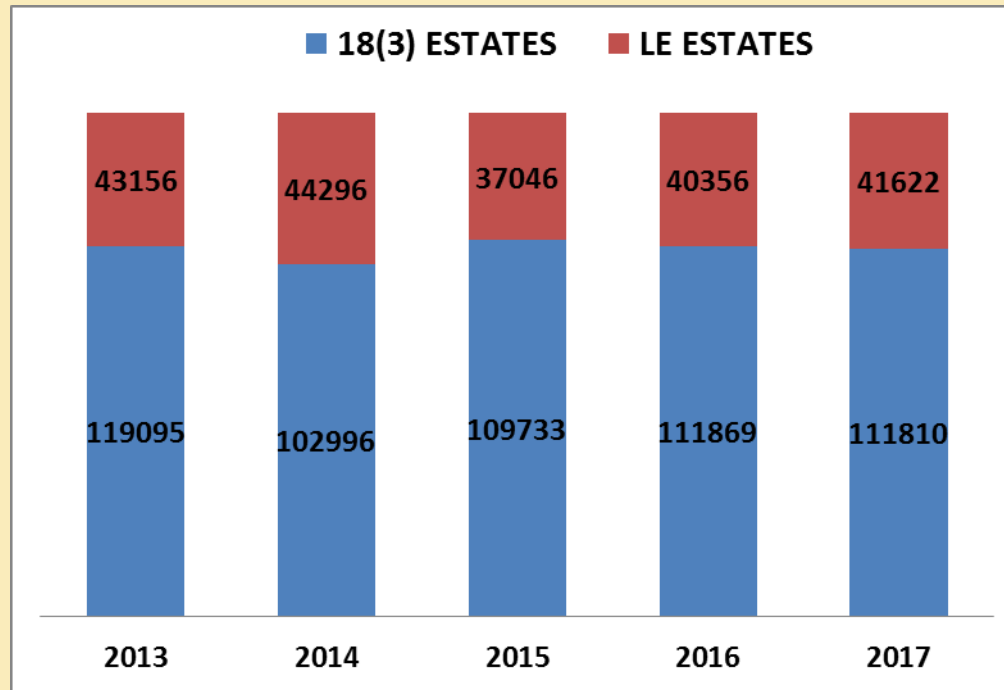


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TYPE OF ESTATES REGISTERED

| | 18(3) ESTATES | LE ESTATES | TOTAL | % LE'S |
|---------------|---------------|------------|--------|--------|
| 2013 | 119095 | 43156 | 162251 | 27.00% |
| 2014 | 102996 | 44296 | 147292 | 30.07% |
| 2015 | 109733 | 37046 | 146779 | 25.24% |
| 2016 | 111869 | 40356 | 152225 | 26.51% |
| 2017 | 111810 | 41622 | 153432 | 27.13% |
| 2018 Jan- Jul | 86094 | 23233 | 62861 | 36.96% |



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ESTATES REGISTERED WITH WILLS

| | ALL REGISTERED | WILLS | % |
|---------------|----------------|-------|--------|
| 2012 | 166049 | 38333 | 23.09% |
| 2013 | 162251 | 36182 | 22.30% |
| 2014 | 147292 | 33866 | 22.99% |
| 2015 | 146779 | 34308 | 23.37% |
| 2016 | 152225 | 34610 | 22.74% |
| 2017 | 154555 | 32337 | 20.92% |
| 2018 Jan- Jul | 86444 | 17972 | 20.79% |

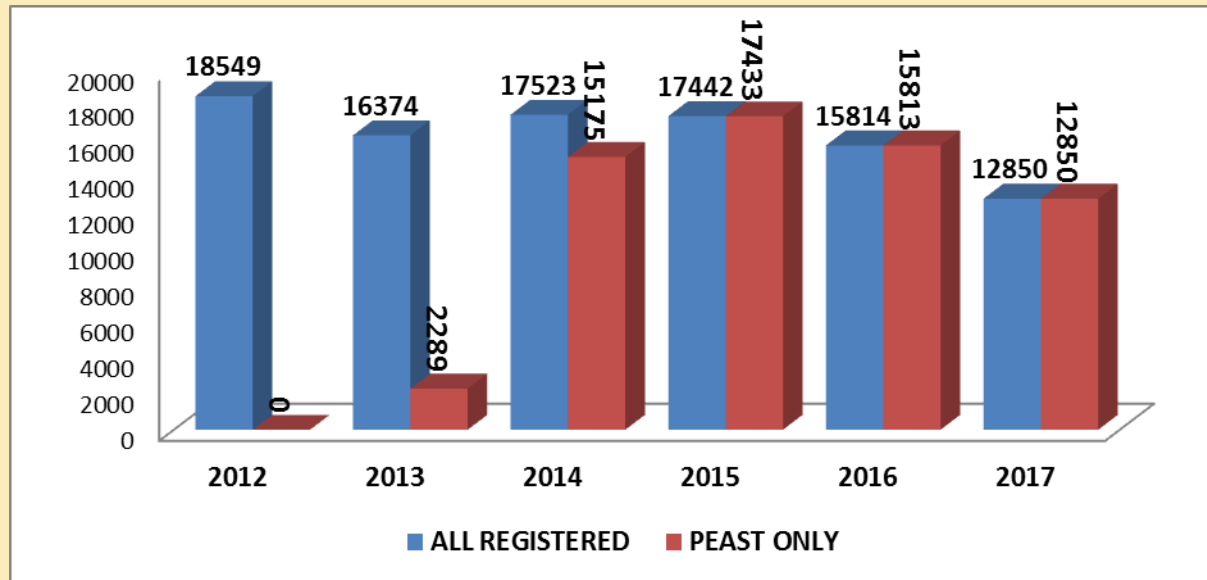


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TRUSTS – ICMS / PEAST

| | ALL REGISTERED | PEAST ONLY | % |
|------|----------------|------------|--------|
| 2012 | 18549 | 0 | 0.00% |
| 2013 | 16374 | 2289 | 13.98% |
| 2014 | 17523 | 15175 | 86.60% |
| 2015 | 17442 | 17433 | 99.95% |
| 2016 | 15814 | 15813 | 99.99% |
| 2017 | 12850 | 12850 | 100% |





THANK YOU



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