



THE FIDUCIARY INSTITUTE OF SOUTH AFRICA



29 April 2020

ATTENTION: MRS TESSIE BEZUIDENHOUT

Chief Master's Office
SALU Building
28th Floor
316 Thabo Sehume Street
PRETORIA
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Dear Mrs Bezuidenhout

CHALLENGES DURING THE COVID-19 NATIONAL LOCK-DOWN AND THEREAFTER

The Fiduciary Institute of Southern Africa (FISA) is a non-profit professional body that represents attorneys, accountants, auditors, financial planners and professionals who work at trust companies. As you are aware, our members collectively draft thousands of Wills annually and administer more than 50% (fifty percent) of deceased estates reported at the various offices of the Master of the High Court.

Our organisation is fully supportive of the government's efforts to curb the spread of the Covid-19 and to flatten the curve of infections, but are concerned about the current situation and wish to bring the following under your attention:

1. Signing of a Last Will and Testament

Death is a reality which most people avoid thinking about, but in a situation where they are faced with their mortality, as many are doing worldwide at the moment, people desire to draft and sign or update and sign a Last Will and Testament to deal with their assets after their demise.

Due to technology it is possible to draft and e-mail a Last Will and Testament to a person but it is not possible to have the document legally executed in terms of the *Wills Act* under the current lockdown regulations. It is a requirement that the Last Will and Testament be signed by the testator or testatrix in the presence of two competent witnesses and as no person may leave his or her place of residence except to deliver or obtain essential goods or services as defined in the regulations, this document cannot be witnessed by two competent witnesses who do not stand to benefit from the Last Will and Testament.

For the above reasons it is hereby requested that the drafting and execution of a valid Last Will and Testament be listed as an essential service under the lockdown regulations as soon as possible, regardless of the phase being applicable.

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New Zealand and Jersey have already implemented changes regarding the requirements to execute a Last Will and Testament to cater for the extraordinary circumstances due to the pandemic and we take the liberty to enclose a copy of this document from New Zealand for your information.

2. Estate Administration

2.1 Letters of Executorship

In order to reduce risks and provide dependants with funds during this time, we propose that Letters of Executorships be issued under the following conditions:

- I. Where parties are married in community of property and the surviving spouse has no other means of income;
- II. The estate has a business interest and there is evidence of high risks; or
- III. Proof that the executor has to safe-guard estate assets.

Fiduciary practitioners can submit Sworn Affidavits to confirm the urgency of the matter when a request is made.

2.2 PEAS

Confirmation that the Letters of Executorship was issued be made available on PEAS in order for the Banks to verify details of executor to pay funds to estate.

2.3 Increase of deaths

If South Africa, like many other countries, has an increase in the number of deaths due to covid-19, it will have a severe effect on the Masters' Offices and the fiduciary industry as we, collectively, will have to cope with an increased inflow of estates. FISA would welcome the opportunity to discuss this matter in more detail when convenient.

3. Trusts

For new and substitute Letters of Authorities to be issued in instances where:

- I. Beneficiaries are dependent on income from the trust; or
- II. Upon proof that trust assets are at risk.

Fiduciary practitioners can submit Sworn Affidavits to confirm the urgency of the matter when a request is made.

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4. Conclusion

We welcome the opportunity to work with government to limit the severe impact that the covid-19 virus will have on individuals and their loved ones and look forward to government's support in this regard.

Fiduciary regards

A handwritten signature in black ink, appearing to read "Angélique Visser".

ANGÉLIQUE VISSER
National Vice Chairperson

A handwritten signature in black ink, appearing to read "Eben Nel".

EBEN NEL (DR)
National Chairperson

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As members, we are subject to the Code of Conduct of the Fiduciary Institute of Southern Africa (FISA).