

The Legal Corner

How long does it take to wind up an estate?



As a rough guide, 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.

Should an estate value 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 or her by the Master of the High Court;
- 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 and D) account; and
- Distribute the deceased's assets in accordance with the provisions of the will and as set out in the L and 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 Administration of Estates Act also prescribes certain processes which carry compulsory time periods. The main ones are:

- The advertisement period for debtors and creditors; and
- 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 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 period expires, the executor cannot finalize 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 she is appointed, which can take time. Often, due to a complex asset structure or tax issues, several accounts will have to be drawn before the estate can be finalized.

Guideline to timespans

The steps to winding up an estate are as follows, with minimum to maximum days needed for each step:

- From death to reporting the death to the Master of the High Court and handing in the will: 2 to 21 days
- Waiting for the Master to issue letters of executorship to the executor: 2 to 90 days
- Placing the advertisement for debtors and creditors: 7 to 14 days
- Advertisement time period: 30 to 44 days
- Time to finalize drafting the account and lodging with the Master: 7 to 60 days
- Waiting for approval from the Master: 14 to 90 days
- Preparing to advertise the account: 7 to 14 days
- Advertisement period: 21 to 28 days
- Distribution of assets: 30 to 180 days
- Final requirements and final cash pay-out to heirs: 30 to 180 days
- Total days: 150 to 721 days
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Should you require assistance in regards to the above, kindly contact our office to set up an appointment in which the relevant steps required in relation thereto will be discussed in detail.

Disclaimer: This article is correct as at the time of going to press, however, it is no substitute for a consultation with an attorney.

TEL: 031 402 0356 EMAIL:
luckylaw@rocketmail.com /
conveyancing.luckylaw@gmail.com
/litigation.luckylaw@gmail.com