

Practical Guidance from the Master's Office: Avoiding Common Mistakes



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Common Issue 1

Incomplete Reporting Documents

Examples

- **J294 – Death Notice**

Item 7 reflects only "KwaZulu-Natal" instead of the deceased's full residential address.

- **J190 – Acceptance of Trust as Executor**

Domicilium details are omitted.

The appointed agent's details are not completed.



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Why this is important (continues..)

- The deceased's full residential address is required to determine jurisdiction.
- Official communication requires the domicilium and agent's details.

Impact

- Delays in processing the estate.
- Additional correspondence.
- Avoidable re-submissions.



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How to avoid it

- Ensure that all prescribed reporting documents are completed fully before lodgement.



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Common Issue 2

Incomplete Information: Section 42(2) Correspondence and Follow-up Enquiries

Examples

- A Section 42(2) application is submitted without indicating whether the Liquidation and Distribution Account has been lodged.
- Follow-up enquiries do not state the current stage of the estate.
- Conveyancing attorneys are not informed whether the estate is at the Appointments stage or the Liquidation and Distribution stage.



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Why this is important

- When an enquiry is received without indicating whether the Liquidation and Distribution Account has been lodged, the Master's Office cannot immediately determine where the file is.
- During the Appointments stage, the file is dealt with by one section.
- Once the Liquidation and Distribution Account has been lodged, the matter is dealt with by a different section.
- Without this information, the Registry may have to search for the file in different sections, and Management cannot immediately direct the enquiry to the appropriate officials.



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Impact

- Delays in responding to enquiries.
- Delays in processing Section 42(2) applications.
- Avoidable frustration for practitioners and the Master's Office.

How to avoid it

- State in every Section 42(2) enquiry whether the Liquidation and Distribution Account has been lodged.
- Ensure that the conveyancing attorney is informed whether the estate is at the Appointments stage or the Liquidation and Distribution stage.



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Common Issue 3

Representatives Attending at the Master's Office Without Adequate Instructions

Examples

- A messenger/representative attends to collect Letters of Executorship or a permission to advertise letter.
- A messenger/representative is unable to explain the purpose of the visit or respond to queries raised by the Master's Office.
- Messengers/ representatives/ personal assistants, legal assistants or candidate attorneys attend at the Master's Office without being fully briefed on the matter.



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Why this is important

- Many practitioners make use of independent messengers to lodge or collect documents from the Master's Office. Their role is generally limited to delivering or collecting documents on behalf of the FISA Member, and they may not be familiar with the background or legal aspects of the matter.
- When a query is raised during the consultation, the messenger or representative is often unable to respond or explain the circumstances of the matter.
- This may result in prolonged consultations, additional telephone calls to the instructing FISA Member and cause delays in resolving the query.



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Impact

- Longer consultation times.
- Delays in resolving queries.
- The effectiveness of the representative's attendance at the Master's Office is greatly diminished if they have not been properly briefed.
- This may result in incomplete or inaccurate information being communicated back to the FISA Member.
- This can result in misunderstandings, unnecessary frustration and, in some instances, unnecessary confrontation between the FISA Member, the representative and the Master's Office.



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How to avoid it

- Brief your representative before they attend at the Master's Office.
- Provide written instructions where appropriate.
- Ensure that your representative understands the purpose of the visit, the current status of the matter and any outstanding queries.
- If a query is raised during a consultation with the representative, rather deal with the query at the office.



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Common Issue 4

Insufficient Information When Serving Court Papers on the Master's Office

Examples

- Court papers and Court Orders are served without reflecting the Master's File Reference Number.
- The deceased's Identity Number or other identifying information is omitted.
- The correspondence does not indicate whether the Liquidation and Distribution Account has been lodged.
- Access to electronically issued Court matters is not granted to the Master's Office.



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Why this is important

- The Master's File Reference Number is the primary reference used to identify the matter.
- Where no Master's File Reference Number or Identity Number is provided, officials are required to manually trace the matter before the Court papers or Court Order can be attended to.
- Knowing whether the estate is at the Appointments stage or the Liquidation and Distribution stage enables the Master's Office to identify the section responsible for the matter more efficiently.
- Where Court proceedings have been instituted electronically, the Master's Office must be granted access to the electronic Court file to enable officials to consider the Court papers without unnecessary delays.

Why this is important (continues...)

- The more information provided at the outset, the quicker the matter, particularly Court Orders, can be attended to by the Master's Office.

Impact

- Delays in tracing the relevant estate file.
- Urgent Court matters may not receive immediate attention if the relevant information is not provided.
- Additional correspondence may be required before the Master's Office can attend to the matter.
- Valuable time is lost locating the required information instead of attending to the application.



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How to avoid it

- Always reflect the Master's File Reference Number on Court papers, Court Orders and related correspondence.
- Include the deceased's Identity Number where appropriate.
- Indicate whether the Liquidation and Distribution Account has been lodged.
- Where Court proceedings are instituted electronically, the Master's Office should be granted access to the electronic Court file by using the email address **MasterDurban@justice.gov.za**.
- Ensure that the instructing attorney is provided with all relevant information during Court proceedings.



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Common Issue 5

Incomplete or Incorrect Deceased Estate Online Registrations

Examples

- Mandatory information is omitted during the online registration process.
- Supporting vouchers are not uploaded or are incomplete.
- The deceased is registered using a passport number instead of a South African Identity Number where dual citizenship is applicable.
- Information is incomplete, resulting in the matter requiring a re-work before it can proceed.



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Why this is important

- The FISA Member is responsible for capturing the estate correctly making use of the online system.
- A complete and accurate online registration assists the Master's Office in processing the matter efficiently.
- Where information is incomplete or supporting documentation is omitted, a re-work is required, resulting in unnecessary delays.
- If the deceased held dual citizenship and had both a South African Identity Number and a passport number, the South African Identity Number should be used when registering the estate online.
- System-related delays, including identity verifications with the Department of Home Affairs, may also affect processing times.



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Why this is important (continues...)

- The quality of the information captured during the online registration process has a direct impact on how efficiently the estate can be processed.

Impact

- Delays in processing the online registration.
- Additional re-work before the estate can proceed.
- Missing information may only become apparent later in the process.
- Avoidable delays are compounded when external system verifications are unavailable or slow.



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How to avoid it

- Complete all mandatory fields.
- Upload all required supporting vouchers.
- Use the South African Identity Number where dual citizenship exists.
- Review the registration before submission.



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Common Issue 6

Objections in Liquidation and Distribution Accounts: When the Master Makes a Ruling

Examples

- Complaints are submitted before the Liquidation and Distribution Account has been advertised for inspection.
- FISA Members or heirs expect the Master to make a Ruling before the statutory objection period has commenced.
- The Master is requested to intervene before the Administration of Estates Act 66 of 1965 (as amended) permits a Ruling.

Why this is important

- The Administration of Estates Act prescribes the procedure for objections in respect of Liquidation and Distribution Accounts.
- Before the inspection period commences, the Master may attempt to resolve complaints through correspondence.
- Section 35(7) governs the objection period.
- Section 35(9) empowers the Master to make a Ruling once the statutory objection period has expired.
- FISA Members should understand the distinction between an informal complaint and a formal objection.



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Impact

- Premature requests for a Ruling lead to unnecessary correspondence and delays.
- Misunderstanding the Master's statutory powers may result in objections being pursued prematurely or unnecessarily prolonged.
- Complaints may continue unnecessarily when parties do not understand at what stage the Master is authorised to make a Ruling in terms of the Act.



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How to avoid it

- Understand the statutory objection process.
- Distinguish between complaints and formal objections.
- Understand when the Master is empowered to make a Ruling in terms of Section 35(9).



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Common Issue 7

Understanding the Master's Statutory Powers in Trust Matters

Examples

- Parties request the Master to resolve disputes between trustees.
- Parties request the Master to interpret a Trust Deed.
- Parties seek directions outside the Master's statutory powers.
- Relief is requested that can only be granted by the High Court.

Why this is important



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• The Master's powers are derived from and limited by, the Trust Property Control Act 57 of 1988 (as amended)



Why this is important (continues...)

- The Master may exercise only those powers specifically conferred by legislation.
- Many trust disputes require interpretation of the Trust Deed, the resolution of factual disputes or relief from the High Court.
- Parties should first follow the provisions of the Trust Deed.
- Parties should refrain from attempting to resolve disputes through correspondence where the Trust Property Control Act 57 of 1988 does not confer the necessary powers upon the Master.
- The Master's powers are confined to those conferred by the Trust Property Control Act 57 of 1988.



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Impact

- Requests for relief outside the Master's statutory powers result in unnecessary correspondence and delays.
- Unrealistic expectations regarding the Master's statutory powers may prolong trust disputes unnecessarily.
- Matters requiring judicial intervention cannot be resolved administratively by the Master.

How to avoid it

- Familiarise yourself with the Master's statutory powers.
- Follow the provisions of the Trust Deed.
- Where appropriate relief falls outside the Master's powers, approach the High Court.



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Top 3 Things to Remember

1. Provide Complete Information the First Time

- Complete all prescribed forms accurately.
- Include all required supporting documentation.
- Ensure that correspondence contains sufficient information to enable the Master's Office to attend to the matter effectively.

2. Understand the Master's Statutory Powers

- The Master's powers are governed by legislation.
- Follow the prescribed statutory processes.
- Where the Master does not have the necessary statutory powers, the appropriate remedy may lie with the High Court.

3. Effective Communication Saves Time

- Keep messengers/representatives and instructing attorneys properly informed.
- Ensure that all correspondence is complete and accurate.
- Good communication between FISA Members and the Master's Office reduces delays and

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improves service delivery.

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Conclusion:

By working together, understanding our respective roles and statutory responsibilities, and ensuring that complete and accurate information is provided from the outset, we can reduce unnecessary delays, improve service delivery and strengthen the professional relationship between the Master's Office and FISA for the benefit of the public we all serve.



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