



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

PRYS (AVB ingesluit 30c PRICE (GST included)
BUITELANDS 40c ABROAD
POSVRY · POST FREE

Vol. 225

KAAPSTAD, 7 MAART 1984

No. 9088

CAPE TOWN, 7 MARCH 1984

KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 368.

7 Maart 1984

No. 368.

7 March 1984

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 12 van 1984: Boedelwysigingswet, 1984.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 12 of 1984: Administration of Estates Amendment Act, 1984.

ADMINISTRATION OF ESTATES AMENDMENT ACT, 1984

Act No. 12, 1984

GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Administration of Estates Act, 1965, so as to make further provision for the liquidation of estates of persons who upon their death are not resident in the Republic; to provide for the submission to the Master of supplementary liquidation and distribution accounts in respect of assets found in estates after the final accounts were submitted; to exempt the executor in certain circumstances from the duty to publish certain notices in respect of certain accounts; to provide that vouchers in support of certain liquidation and distribution accounts need only be submitted if the Master so requires; to exempt natural guardians of minor heirs in certain circumstances from the obligation to provide security in respect of money or other movable property paid or delivered to them on behalf of such heirs; and to make further provision in connection with the payment of moneys in the guardian's fund to natural guardians of minors; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)

(Assented to 22 February 1984.)

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 10 of the Administration of Estates Act, 1965 (hereinafter referred to as the principal Act), is hereby repealed. Repeal of section 10 of Act 66 of 1965.
2. The following section is hereby substituted for section 25 of the principal Act: Substitution of section 25 of Act 66 of 1965.
- “Estates of persons who upon their death are not resident in the Republic and do not own any property other than movable property in the Republic.”
25. (1) Upon the death of any person who is neither ordinarily resident within the Republic nor the owner of any property therein other than [shares, stocks or any right to dividends due thereon, or any credit balance at any bank or other financial institution, or debentures or any right to interest due thereon] movable property, the Master may, subject to the provisions of subsection (2)—
- (a) without observing the usual procedure or requiring security—
- (i) sign and seal letters of executorship produced to or lodged with him under section 21; or
- (ii) if no such letters are produced or lodged, appoint an executor to liquidate and distribute the estate, or direct the manner in which the estate shall be liquidated and distributed; and
- (b) by writing under his hand and subject to such conditions as he may determine, exempt the ex-

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- ecutor from compliance with the provisions of section 35.
- (2) The Master shall not exercise his powers under subsection (1) unless—
- 5 (a) an affidavit made by such person and containing such particulars as may be prescribed has been lodged with him in the place of the documents required in terms of the proviso to section 21;
- 10 (b) the estate duty payable in respect of the **[shares, dividends or debentures]** said movable property has been paid or the payment thereof has been secured to the satisfaction of the proper authority; and
- 15 (c) he is satisfied that no person in the Republic will be prejudiced.”
3. (1) Section 34 of the principal Act is hereby amended—
- (a) by the substitution in paragraph (b) of the proviso to subsection (1) for the word “insecured” of the word “unsecured”; and
- 20 (b) by the insertion after subsection (7) of the following subsection:
- “**(7A) (a) If at any time after the account contemplated in subsection (7) was submitted to the Master, additional assets are found in the estate and the account is not amended in terms of this section so as to provide for the application or distribution of the proceeds of those assets, the executor shall in respect of those assets submit to the Master a supplementary account in the prescribed form supported by vouchers.**
- 25 (b) The provisions of subsection (7) (b) shall *mutatis mutandis* apply in respect of a supplementary account contemplated in paragraph (a) of this subsection.”
- 30 (2) Subsection (1) shall come into operation on the date on which section 10 of the Administration of Estates Amendment Act, 1983 (Act No. 86 of 1983), comes into operation.
4. Section 35 of the principal Act is hereby amended—
- (a) by the substitution for the words following paragraph (b) of subsection (1) of the following words:
- 40 “submit to the Master an account in the prescribed form **[, supported by vouchers,]** of the liquidation and distribution of the estate.”;
- (b) by the insertion after subsection (1) of the following subsection:
- 45 “**(1A) If at any time after the account contemplated in subsection (1) was submitted to the Master, additional assets are found in the estate and the account is not amended in terms of this section so as to provide for the application or distribution of the proceeds of those assets, the executor shall in respect of those assets submit to the Master a supplementary account in the prescribed form.**”;
- 50 (c) by the substitution for subsection (2) of the following subsection:
- 55 “(2) The Master may at any time in any case in which he has exercised his powers under paragraph (b) of subsection (1) or in which an executor has funds in hand which ought, in the opinion of the Master, to be distributed or applied towards the payment of debts, direct the executor in writing to submit to him an interim account in the prescribed form **[, supported by vouchers,]** within a period specified.”;
- 60

Amendment of section 34 of Act 66 of 1965, as substituted by section 10 of Act 86 of 1983.

Amendment of section 35 of Act 66 of 1965, as amended by section 5 of Act 15 of 1978 and section 11 of Act 86 of 1983.

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- (d) by the insertion after subsection (2) of the following subsection:
 “(2A) The Master may in respect of an account contemplated in subsection (1), (1A) or (2) direct the executor to submit to him within a period determined by him such voucher or vouchers in support of the account or any entry therein as he may require for the purpose of performing his functions in connection with the examination or amendment of the account.”;
- (e) by the addition to subsection (5) of the following paragraph, the existing subsection becoming paragraph (a):
 “(b) If, in the case of a supplementary account contemplated in subsection (1A), the value of the assets concerned is in the opinion of the Master too small to justify the cost of publication of the notices contemplated in paragraph (a) of this subsection, that paragraph shall not apply in respect of such supplementary account and the Master may, if he finds it necessary, direct the executor to give notice, in such manner and to such persons as the Master may determine, of the place at which and the period during which the account will lie open for inspection in terms of subsection (4).”; and
- (f) by the substitution for the proviso to subsection (12) of the following proviso:
 “Provided that—
 (i) a cheque purporting to be drawn payable to a creditor or heir in respect of any claim or share due to him and paid by the banker on whom it is drawn; or
 (ii) an affidavit by the executor in which he declares that a creditor was paid or that an heir received his share in accordance with the account,
 may be accepted by the Master in lieu of any such receipt or acquittance.”.

5. Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 36 of Act 66 of 1965.

- “(1) If any executor fails to lodge any account with the Master as and when required by this Act, or to lodge any voucher or vouchers in support of such account or any entry therein in accordance with a provision of or a requirement imposed under this Act or to perform any other duty imposed upon him by this Act or to comply with any reasonable demand of the Master for information or proof required by him in connection with the liquidation or distribution of the estate, the Master or any person having an interest in the liquidation and distribution of the estate may, after giving the executor not less than one month’s notice, apply to the Court for an order directing the executor to lodge such account or voucher or vouchers in support thereof or of any entry therein or to perform such duty or to comply with such demand.”.

6. Section 43 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 43 of Act 66 of 1965.

- “(2) Subject to any express provision to the contrary in the will—
 (a) no sum of money shall be paid to any such guardian in terms of subsection (1); and
 (b) if [in the case of any other movable property,] the Master so directs, no [such] other movable proper-

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ty shall be delivered to any such guardian under that subsection [(1)], unless payment of such sum of money or payment, in default of delivery, of the value of such movable property according to a valuation by an appraiser or any other person approved by the Master, as the case may be, to the minor, at the time when he is to become entitled to the payment of such sum of money or delivery of such property, has been secured to the satisfaction of the Master.”.

10 7. The following section is hereby substituted for section 90 of the principal Act:

Substitution of section 90 of Act 66 of 1965, as amended by section 20 of Act 86 of 1983.

15 “Payments to natural guardians, tutors and curators, or for and on behalf of minors and persons under curatorship. 20 90. (1) The Master may, subject to subsection (2) and subject to the terms of any will or written instrument disposing of the money or, in the case of a tutor or curator, by which the tutor or curator has been nominated, pay to the natural guardian or to the tutor or curator, or for and on behalf of the minor or other person concerned, so much of any moneys standing to the credit of the minor or other person in the guardian’s fund as may be immediately required for the maintenance, education or other benefit of the minor or other person or any of his dependants, or for any purpose referred to in subparagraph (i), (ii) or (iv) of paragraph (c) of the proviso to section 82, or for any investment in immovable property within the Republic or in any mortgage over such immovable property on behalf of the minor or other person, approved by the Master: Provided that, subject to the terms of any such will or instrument, the aggregate of the payments made in the case of any minor or other person for purposes of maintenance, education or other benefit shall not, without the sanction of the Court, exceed R10 000 of the capital amount received for account of the minor or other person concerned.

35 (2) Where a natural guardian gives security in terms of section 43 (2) after the sum of money to which a minor is, according to any distribution account in any deceased estate, entitled as heir, has been paid into the guardian’s fund, the Master may pay to that guardian, for and on behalf of such minor, the sum of money standing to the credit of the minor in the guardian’s fund, whereafter the provisions of section 43 (3), (4) and (5) shall *mutatis mutandis* apply.”.

8. This Act shall be called the Administration of Estates Amendment Act, 1984. Short title.