

The Star

LEGALS



Louis van Vuren, CEO of FISA, says the size and structure of a deceased person's assets and liabilities determine how long it will take to wind up an estate.

A deceased estate can take a long time to be finalised

LEGALS WRITER

It is extremely difficult to assess how long it will take to wind up an estate as so many unpredictable factors and parties are involved, says Louis van Vuren, CEO of the Fiduciary Institute of Southern Africa (FISA).

“But as a rough guide one could say a deceased estate can take anything from five months – which is most unlikely – to several years to finalise. The time depends largely on the size and structure of the deceased person’s assets and liabilities.”

Van Vuren says in the case of an estate smaller than R250 000, the process is simple and an executor is not appointed but a person – usually a family member – authorised by the Master of the High Court to pay and collect debts and distribute the assets of the deceased to the heirs.

For estates valued at more than R250 000, in which case an executor needs to be appointed, the executor will have to:

- Apply for letters of executorship to be issued to him/her by the Master of the High Court; and
- 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&D) account; and
- Distribute the deceased’s assets in accordance with the provisions of the will and as set out in the L&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 1965 also prescribes certain processes which carry compulsory time periods. The two main ones are:

- The advertisement period for debtors and creditors;
- The inspection period during which the estate account must be available for inspection at the relevant Master’s Office.

“The advertisement advising debtors and creditors of the deceased to pay their debts and lodge their claims must appear on the same day in both the Government Gazette and a local newspaper in the area where the deceased lived. It must state that the debtors and creditors have 30 days to act. Before this time expires, the ex-

Action	Shortest possible time (days)	Time if delays are experienced (days)
From death to reporting the death to the Master of the High Court and handing in the will	2	21
Waiting for the Master to issue letters of executorship to the executor	2	90
Placing the advertisement for debtors and creditors	7	14
Advertisement time period	30	44
Time to finalise drafting the account and lodging with the Master	7	60
Waiting for approval from the Master	14	90
Preparing to advertise the account	7	14
Advertisement period	21	28
Distribution of assets	30	180
Final requirements and final cash pay-out to residual heirs	30	180
TOTAL	150	721

ecutor cannot finalise 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 21 days. All of this can only be done by the

executor once appointed, which can take time.

“Sometimes, due to a complex asset structure or tax issues, several successive accounts will have to be drawn before the estate can be finalised,” van Vuren states.

He has provided a rough guideline to time lapses (see the table above).

Source: www.fisa.net.za or call 082 922 7483.