



JANSEN

ACCOUNTANTS & AUDITORS

Deceased Estates

Walking with you
through life's tides

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1. INTRODUCTION



We at Jansen Accountants and Auditors would like to extend our deepest condolences to you for the loss of your loved one. We understand the delicacy of your circumstances and want to assure you that we are dedicated to making the process of settling your loved one's financial affairs as seamless as possible for you and your family.

We are committed to our clients and are here to assist you in any way we can during this difficult time.

The information below is intended to help you through the process. We trust that this will help clarify any questions or concerns that you may have. We do understand that each estate is unique and that the information may not always fit your particular circumstances. If you have any further questions, please contact us, and we will gladly assist with any questions you may have.

2. IMPORTANT FIRST STEPS AND PRACTICAL TIPS

When somebody close to you passes away, these are the first things you should do:



Obtain the original ID of the Deceased and their latest original Will (if any).



Make certified copies of the ID, Will and all other important documents (for example Form BI-1663 Death Notice, Death Certificate, marriage certificates and antenuptial contracts, divorce/maintenance orders, birth certificates of minor children of the Deceased, deeds of transfer, vehicle registration papers, firearm licences and last tax return).

You can certify documents at any police station or attorney firm for free. Make sure that the commissioner of oaths signs, stamps and dates every single page of all copies, that all copies are clear and not faded and that the stamp is not smudged.



Obtain information regarding financial statements (bank statements, last salary slip, bond details, municipal accounts, share certificates and business registration certificates), policies (life, house or vehicle insurance policies, provident/pension fund or annuities) and funeral cover.



Find out what debit orders or monthly payments were due by the Deceased and try to maintain the necessary ones (especially insurances, municipal accounts and school fees). It is always helpful to cancel subscriptions (for example DSTV, phone accounts, magazines, medical aid and holiday clubs) as soon as possible.



Close all social media accounts.



Make sure that the surviving spouse, any dependent minor children and pets have a safe place to stay and are properly cared for.



Make sure that the Deceased's home is being occupied and looked after (prevent illegal squatting) and that movable assets such as vehicles or firearms are kept safe, being maintained and not allowed to get into the hands of reckless people.

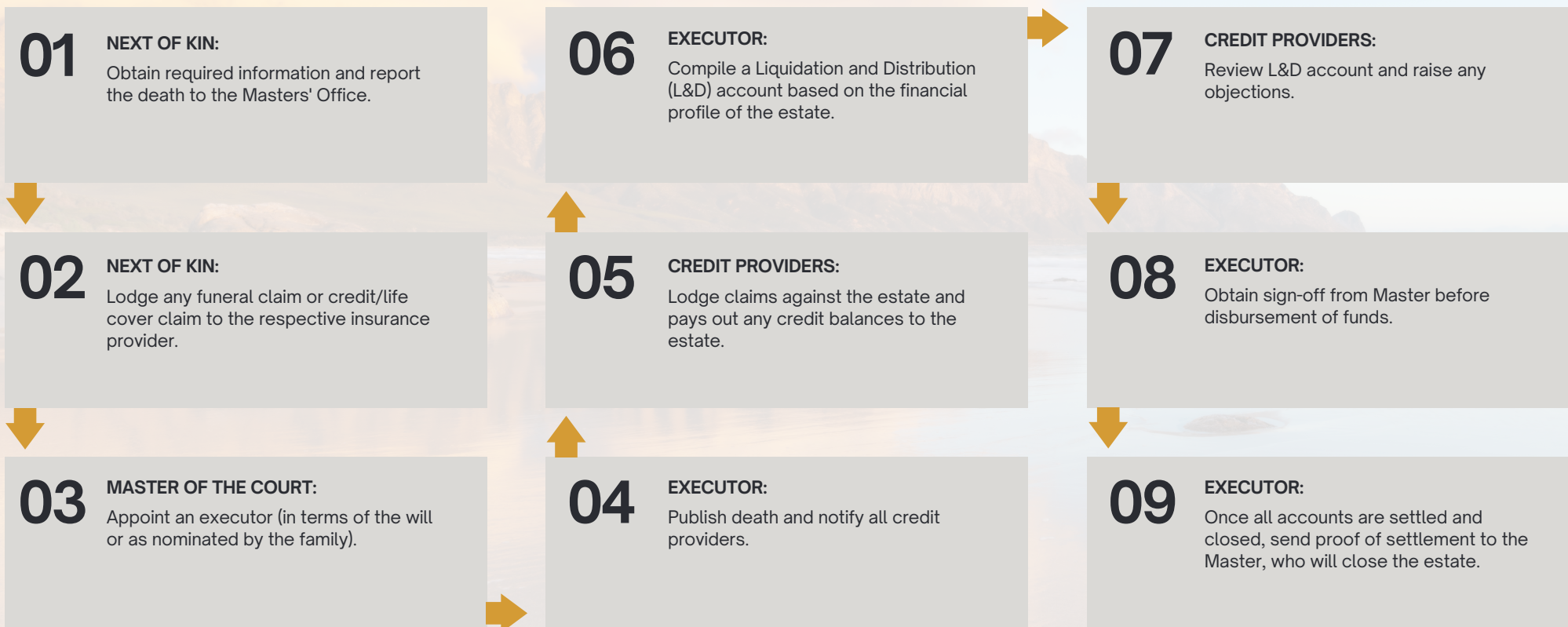


Report the death to SARS.



Collect all post that is relevant to the estate.

3. OVERVIEW OF THE DECEASED ESTATES PROCES



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1. If a South African resident passes away, normally a doctor (or a traditional leader/Home Affairs official/SAPS official) will complete the Notice of Death, which specifies the cause of death (**Form BI-1663**– usually 4 to 8 pages). Click on the following link to see what this form looks like: <https://www.sahc.org.au/pdf/dha/DHA-1663%20A.pdf>
2. A Death Certificate is then usually obtained from the Department of Home Affairs by the Undertaker/Funeral Parlour (the deceased's old green ID is also stamped 'Deceased' in red letters,so that it can no longer be used).
3. The Death is reported to the Master of the High Court with a Death notice (**Form J294**) completed by either the spouse or blood relative living in the same district where the Deceased passed away (filed at the Master's office within 14 days of the date of death).

Important to Note: In instances where the Deceased's estate has not been reported to the Master's Office, an interested party including an heir or a creditor may nominate an Executor by the Master to take control of the assets in the Deceased's estate and to finalise the administration of the same (Section 19 of the Administration of Estates Act).



Below are some of the documents that you need to provide to the
4. Master's Office (for an overview of the full requirements, you can click on Master/Forms ([justice.gov.za](https://www.justice.gov.za)))

- Original Will or Next of Kin Affidavit (**Form J192** – if no Will).
- Affidavit of care (only if Deceased left minor children).
- Inventory list (**Form J243**).
- List of creditors (only if the estate is worth less than **R250 000,00**).
- Declaration that the estate has not been reported to another Master's office.
- Declaration of Marriage.

- Nominations Form; and
- **Form J155** – Undertaking and Acceptance of Master's directions (if small estate) or a **Form J190** – Acceptance of Trust as Executor (if large estate).
- If the nominated Executor was not exempted in the Will from providing security for carrying out their duties diligently or if there was no Will and the Executor is neither the parent/ spouse/child of the Deceased nor a registered professional Executor (in other words, an attorney or accountant firm), then the nominated Executor must also provide a **Form J262** – Undertaking and Bond of Security.

Also submit certified copies of the Death Certificate, the Identity Document (ID) of the Deceased, the ID of the nominated Executor/Master's Representative and all documents nominating them, the marriage certificate (and antenuptial contract, if there is one) or divorce order, birth certificates of minors and proof of the values of the known assets in the estate.

A useful website to note at this point is the Master's official website, where all the above forms appear in editable pdf format (a useful checklist is also provided). Click on the following link: <https://www.justice.gov.za/master/forms.html>

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5. Obtain a Letter of Executorship (**LOE**), Form J238, if it is a large estate, or a Letter of Authority (**LOA**), Form J170, if it is a small estate, from the Master's Office, which will stipulate the estate's unique estate number on it (e.g. Estate No. 123/2021).

Helpful Hint: The Master's Office provides a brochure outlining the services of the Master and the process of reporting a Deceased estate. You can access the brochure using the following link: [2018-Master-Booklet.pdf \(justice.gov.za\)](#)

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If the gross assets of the estate are more than R250 000,00 (i.e. it's a large estate) then the Master of the High Court will issue Letters of Executorship and the process outlined below will apply – it is the Executor's responsibility to complete the following steps:

- a. Open up an estate bank account.
- b. Obtain formal valuations of the assets.
- c. Complete an income tax return on behalf of the estate.
- d. Collect money due to the estate.
- e. Pay out emergency maintenance to the surviving spouse or the Deceased's dependants while the estate is being finalised.
- f. Advertise for creditors to lay their claims against the estate (**J193** Notice placed in the Government Gazette and a local newspaper). Creditors have 30 days in which to submit claims to the Executor.
- g. Draw up a Liquidation and Distribution Account(L & D account) which is sent to the Master for approval.
- h. Respond to queries raised by the Master on the L & D account.



- i. Once the Master's queries have all been addressed and the Master has approved the L&D account, place the advertisement (and place the J187 Notice in the Government Gazette and a local newspaper) saying that the L&D account is waiting for inspection at the Master's Office and the Magistrate's Court with jurisdiction for 21 days.
- j. If no objections are received regarding the L&D account, proceed to liquidate and/or distribute the assets among creditors, heirs and legatees. Also, ensure that the assets are transferred onto the new owner's name.
- k. Pay estate duty and capital gains tax to SARS, if necessary. (Currently, only estates that have a net value of over R3.5 million are liable to pay estate duty.)
- l. Send proof of the distributions to the Master and fill in an 'application for discharge' by returning the Letters of Executorship.



Note that the Executor can only pay their own account when all other distributions have been made (Executor's fees are usually 3.5% of the gross asset value of the estate). Once all these steps have been completed, a Filing Notice is issued by the Master confirming that the estate has been properly wound up.

Important Note: The heir(s) can only receive benefits from an estate after all creditors' claims, as well as any claims that SARS may have against the Deceased, are paid in full. So even though a property may be registered in the name of the Deceased, if he/she has no life cover, the outstanding balance on the loan/bond account must first be settled before any heirs can inherit the immovable property. If there is a cash shortfall, some of the assets in the estate may have to be sold for the purpose of settlement with creditors before any heirs may inherit.

If the gross assets of the estate are less than R250 000,00 (i.e. it is a small estate) then the Master of the High Court will issue Letters of Authority that will specify what assets are to be dealt with by the Master's Representative. No estate account needs to be opened for small estates, no advertisements are placed in the Government Gazette or a local newspaper and no L&D account is drawn up. Once the winding-up process is completed, the Master's representative also gives proof to the Master that proper distribution has been done, the Letters of Authority are handed in and the Master issues a Filing Notice confirming that the estate is now closed.

5. WHAT HAPPENS TO DEBT OWED TO THE BANK?



Home Loans

1. The first step is to find out if there is active life cover over the bond (and to what extent it will settle the outstanding balance).
2. If there is no active life cover, then the remaining holder of a joint bond needs to make monthly payments until the balance is settled out of the estate (if the estate is solvent).
3. If there is no money in the estate to settle the full bond amount owing, the remaining bondholder must apply for a section 45 substitution application in order to take over the full monthly payments of the bond (this is seen as a cancellation of the current joint bond contract and a subsequent section 45 substitution/reapplication for a single-bond contract). This process is subject to a full affordability assessment. If the section 45 substitution application is successful, the bond is placed only in the name of the surviving bondholder on the title deed at the Deeds Office.



Vehicle and Asset Finance (VAF)

1. The first step is to find out if there is an active life cover for the vehicle.
2. If there is no life cover, then the estate will need to settle the outstanding balance. If this is not a viable option, the person who is due to inherit the vehicle is called on to take over the agreement and maintain the monthly payments.
3. Please ensure that your VAF company is informed of the address where the vehicle will be stored while the estate is being finalised. Any change to the address must be promptly communicated to them.
4. **It is important to note that a vehicle is a vulnerable asset once the owner has passed away and therefore if no other responsible party accepts responsibility for the vehicle and no payments are forthcoming on the vehicle account after 30 days have passed from the date on which the family was notified that payments need to be maintained, an outside collection agent (OCA) will be asked to collect the vehicle.**
5. Should you decide as a family that you do not wish to keep the vehicle, you may arrange for the Bank to collect the vehicle (this is known as voluntary surrender).



Loans/ Cheques/ Credit Cards

The first step is to find out if there is active life cover on the account.

If there is no active life cover, the claim will be lodged against the estate and the Executor will include the claim on the L&D account.

The Executor will then make the required arrangements to have all accounts settled and closed.

6. PROCESS TO FOLLOW FOR FUNERAL PAYOUTS



Permission from the Master of the High Court is required before the relevant bank can release funds for funeral payouts.

Usually, a family member approaches the Master with the request for access to the Deceased's funds, taking along with them the quotes/invoices and the costs that justify their request. The Master then issues a formal letter that grants the bank permission to release the specified amount to the specified suppliers based on the quotes/invoices.



This formal letter is the authority that is used to process payments from the Deceased's bank account directly to the supplier, for example, the funeral parlour.

7. IN CLOSING



Once again we extend our deepest condolences to you for your loss. We hope that the above information has been helpful to you. As we said earlier, we at Jansen Accountants & Auditors are determined to make this process as seamless as possible for you. Please reach out to us, using the details below, if you have any further questions or concerns. We will be happy to assist.

Warm regards
The Jansen Accountants & Auditors Team



**All requests relating to deceased estates
must be sent to the General Mailbox:**

info@jacc.co.za



**Telephone number:
021 554 3482**



**Jansen Accountants &
Auditors website:**

www.jacc.co.za

8. APPENDIX



A. Understanding the Terminology

- **Credit Life/Life Cover**

This is insurance that is taken out to cover the outstanding debt on an account in the event of your death.

- **Estate**

This is the net worth of an individual and it includes all assets, cash, possessions and liabilities that the Deceased owned or had a controlling interest in at the time of death.

- **Estate Bank Account**

This is a new account opened in the name of the estate after someone has passed away.

The account is used by the Executor to:

- Receive any fund sowed to the Deceased Estate;
- Make payments to any credit provider in line with a claim lodged against the estate, and
- Finalize the distribution of assets to the beneficiaries of the Estate.

- **Executor**

The person appointed to administer the Deceased's last Will and testament.

- **Liquidation and Distribution Account**

A liquidation and distribution (L&D) account is essentially a written report addressed to interested parties (the Master, heirs and creditors), stating the process of collecting and settling the assets and debts, and the handing over of what is left to the heirs of the Deceased's estate.

- **Master of the High Court**

This division of the Master's Office supervises the administration of a deceased person's estates.

The purpose is to ensure an orderly winding up of the financial affairs of the deceased and to protect the financial interests of the heirs.

To locate your nearest Master's Office, you can visit their website at <https://www.justice.gov.za/master/contacts.htm>

- **Notification of Death (BI1663)**

A document that is completed when a death is reported and that details the date and cause of death.

It can be completed by a medical practitioner, a traditional leader (for rural areas), a funeral parlour, a Home Affairs official or an SA Police Service official.

It is required together with the deceased's ID so that a death certificate can be obtained.

- **Shortfall**

This refers to the balance remaining on the account after payment is received either through insurance or from the estate. The estate is responsible for settling any shortfalls on an account.

- **Substitution of debtor**

To remove or replace a bondholder on your joint home loan, following the death of one of the bondholders

Substitutions are processed as new loan applications, which will involve an affordability and credit assessment.

- **Voluntary Surrender**

This is when the next-of-kin contacts the credit provider to return the vehicle when repayments can no longer be honoured.

The credit provider will make arrangements to sell the vehicle and will credit the proceeds of the sale to the account. If there are any shortfalls, this will be claimed from the estate.



B. Overview of the Law¹ regulating Deceased Estates in South Africa

- South African Deceased Estates Law applies when a natural person (who was ordinarily resident in the Republic) passes away.
- A person can either die **testate** (with a valid Will) or **intestate** (without a valid Will).
- A valid Will is one that represents the deceased's last wishes, has been expressed in writing and is signed by the deceased and two independent witnesses (people who do not benefit in any way from the deceased's estate in terms of the Will that they are witnessing).
- If there is no valid will – the estate is usually inherited by the legally recognised spouse or the closest surviving relative according to bloodlines and various other rules and formulas in the relevant Intestate Succession Act. It is only if there is no living relative that can be traced – that the estate is then forfeited to the State.
- If there is a valid Will, usually an Executor, a Guardian and/or a Trustee will be appointed and Legatees (people who inherit specific items) and Heirs (those who inherit free residue) will be nominated.
- If it is a **large estate** (gross assets above **R250 000,00**), then an Executor needs to be appointed by the Master of the High Court.
- If it is a **small estate** (gross assets below **R250 000,00**), then a Master's Representative needs to be appointed.
- Whether an Executor or a Master's Representative is appointed, their job in terms of Deceased Estates Law is to make sure that all the assets that were owned by the Deceased are collected and accounted for, all their debts and tax are paid out using the available assets, and that whatever is left over from this goes to the rightful beneficiaries (the legatees or heirs nominated in terms of the Will or, if there is no valid will, to the closest surviving relatives in terms of Intestate Succession).

Regulated mostly through the provisions of the Administration of Estates Act 66 of 1965, but also other Acts that apply, such as the following:

Intestate Succession Act 81 of 1987

Wills Act 7 of 1953

Estates Act 66 of 1965

Estate Duty Act 45 of 1955

Maintenance of surviving spouse Act 27 of 1990

Recognition of Customary Marriages Act 120 of 1998