



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS SURVIVING IN TERMS OF

Legal Practitioners Act 15 of 1995
section 94(4)

**Regulations Prohibiting the Liquidation or Distribution of the
Estates of Deceased Persons by any Person other than an
Attorney, Notary, Conveyancer or Law Agent**

RSA Government Notice R.910 of 1968

[\(RSA GG 2080\)](#)

came into force on date of publication: 22 May 1968

These regulations were initially made in terms of section 30 of the *Attorneys, Notaries and Conveyancers Admission Act 23 of 1934 (SA)* ([SA GG 2196](#)). The 1934 Act was repealed by the *Attorneys Act 53 of 1979 (RSA)* ([RSA GG 6473](#)), and the regulations were deemed by section 86(3) of the 1979 Act to have been made under that Act. The *Attorneys Act 53 of 1979 (RSA)* was repealed by the *Legal Practitioners Act 15 of 1995*, which provided in section 94(4) that any regulations made under the 1979 Act remain in force insofar as they are compatible with the provisions of the 1995 Act.

as amended by

RSA Government Notice R.1013 of 1969 ([RSA GG 2439](#))

came into force on date of publication: 20 June 1969

RSA Government Notice R. 1376 of 1971 ([RSA GG 3227](#))

came into force on date of publication: 13 August 1971

ARRANGEMENT OF REGULATIONS

[The individual regulations have no headings.]

**REGULATIONS
Legal Practitioners Act 15 of 1995****Regulations Prohibiting the Liquidation or Distribution of the Estates of Deceased Persons
by any Person other than an Attorney, Notary, Conveyancer or Law Agent**

1. (1) In these regulations, unless the context otherwise indicates -

- (i) “banking institution” means a banking institution as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965), and registered or provisionally registered as a banking institution of a class referred to in that section but does not include a board of executors or trust company which was, on the twenty-seventh day of October, 1967, registered or provisionally registered as such a banking institution;

[The Banks Act 23 of 1965 has been replaced by
the Banking Institutions Act 2 of 1998.]

- (ii) “board of executors” means a board of executors which was, on the twenty-seventh day of October, 1967, licensed as such under the Licences Act, 1962 (Act No. 44 of 1962), and carrying on a business of which a substantial part consisted of the liquidation or distribution of the estates of deceased persons but does not include such a board of executors in which a banking institution acquired or acquires, after that date, a financial interest otherwise than in exchange or substitution for any such interest held by such banking institution on that date;

[The Licences Act 44 of 1962 was not applicable to South West Africa.]

- (iii) “financial interest” means any interest in the shares, share capital or assets of a board of executors or trust company by virtue of which any person having such interest is likely, directly or indirectly, to share in any pecuniary benefit obtained by such board of executors or trust company from the liquidation or distribution of the estates of deceased persons by such board of executors or trust company or by any person in the service of such board of executors or trust company but does not include any such interest held by any banking institution except where that institution is by reason of the fact that it holds such interest entitled either alone or together with one or more other banking institutions holding such interest, to exercise directly or indirectly more than 25 per cent of the voting rights in the board of executors or trust company concerned or to receive directly or indirectly more than 25 per cent of the distributable profits of such board or company;

[paragraph (iii) amended by RSA GN R.1013/1969]

- (iv) “liquidate or distribute”, in relation to the estate of a deceased person, includes the performance of any act relating to the liquidation or distribution of such estate other than the realization, transfer or valuation of any of the assets of such estate or of any right in or to such assets;
- (v) “Master” means a Master as defined in section 1 of the Administration of Estates Act, 1965 (Act No. 66 of 1965);
- (vi) “trust company” means a trust company which was, on the twenty-seventh day of October, 1967, licensed as such under the Licences Act, 1962 (Act No. 44 of 1962), and carrying on a business of which a substantial part consisted of the liquidation or distribution of the estates of deceased persons but does not include such a trust company in which a banking institution acquired or acquires, after that date, a financial interest otherwise than in exchange or substitution for any such interest held by such banking institution on that date.

[The Licences Act 44 of 1962 was not applicable to South West Africa.]

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(2) For the purposes of the definition of “financial interest” in subparagraph (1), a banking institution shall be deemed to be entitled to exercise directly or indirectly any voting rights in a board of executors or a trust company or to receive directly or indirectly any share of the distributable profits of such board or company also where that institution is entitled to exercise such rights or to receive such share through any other person or body.

2. Subject to the provisions of paragraphs 3 and 4, no person other than an attorney, notary or conveyancer as defined in section 1 of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934), (hereinafter in these regulations referred to as an attorney, notary or conveyancer, as the case may be) or an agent referred to in section 22 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), (hereinafter in these regulations referred to as a law agent) shall liquidate or distribute the estate of a deceased person.

[Subregulation (2) is inserted by RSA GN R.1013/1969.

The Attorneys, Notaries and Conveyancers Admission Act 23 of 1934 (SA) was replaced by the Attorneys Act 53 of 1979 (RSA), which was repealed by the Legal Practitioners Act 15 of 1995.]

3. The following persons shall be permanently exempt from the provision of paragraph 2, namely -

- (1) any board of executors;
- (2) any trust company;
- (3) any public accountant as defined in section 1 of the Public Accountants’ and Auditors’ Act, 1951 (Act No. 51 of 1951), and registered as an accountant and auditor under that Act;
- (4) any person, other than a banking institution, who was, on the twenty-seventh day of October, 1967, licensed as a broker or agent under the Licences Act, 1962 (Act No. 44 of 1962), and carrying on a business predominantly consisting in the liquidation or distribution of the estates of deceased persons.

[The Licences Act 44 of 1962 was not applicable to South West Africa.]

4. The following persons shall, to the extent specified in each case, be exempt from the provisions of paragraph 2 -

- (1) any natural person nominated as executor by any deceased person by a will registered and accepted in the office of the Master, in so far as he is personally liquidating or distributing the estate of such deceased person;
- (2) the spouse of or any person related by consanguinity or affinity up to and including the second degree to such natural person, in so far as he is assisting such natural person with the liquidation or distribution of such estate;
- (3) the surviving spouse of or any person related by consanguinity or affinity up to and including the second degree to a deceased person, in so far as he is liquidating or distributing the estate of such deceased person;
- (4) (a) any banking institution registered or provisionally registered as such on the twenty-seventh day of October, 1967, in so far as such banking institution is liquidating or distributing the estate of a deceased person by whom such

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banking institution or an officer or director of such banking institution has been nominated as executor by a will registered and accepted in the office of the Master;

- (b) any banking institution registered or provisionally registered as such after the 27th day of October 1967, if such banking institution came into existence by the taking over of all the assets and liabilities which a banking institution referred to in subparagraph (a), incorporated in a foreign country, had in the Republic, in so far as such firstmentioned banking institution is liquidating or distributing the estate of a deceased person by whom that banking institution or the banking institution from whom it took over the assets and liabilities in the Republic, or an officer or director of either of such banking institutions has been nominated as executor by a will registered and accepted in the office of the Master;

[paragraph (b) inserted by RSA GN R.1376/1971]

- (5) any person in the full-time service of any other person who is lawfully liquidating or distributing the estate of a deceased person, in so far as he is assisting such other person with or is acting on his behalf in any matter relating to the liquidation or distribution of such estate;
- (6) any person in the full-time service of a trade union as defined in section 1 of the Industrial Conciliation Act, 1956 (Act No. 28 of 1956), and registered under that Act, in so far as he is liquidating or distributing, otherwise than for or in expectation of any direct or indirect reward to himself or any other person, the estate of a deceased person who was, at the time of his death, a member of such trade union or the spouse of such member;

[The Industrial Conciliation Act 28 of 1956 (renamed the Labour Relations Act in South Africa by the Labour Relations Amendment Act 57 of 1981) was not applicable to South West Africa. The analogous law in South West Africa was the Wage and Industrial Conciliation Ordinance 35 of 1952, which was replaced by the Labour Act 6 of 1992, which was replaced in turn by the Labour Act 11 of 2007.]

- (7) any person liquidating or distributing the estate of a deceased person on the instructions of an attorney, notary, conveyancer or law agent, in so far as he is liquidating or distributing such estate in pursuance of such instructions;
- (8) any person liquidating or distributing the estate of a deceased person in pursuance of directions given by the Master under section 18(3) of the Administration of Estates Act, 1965 (Act No. 66 of 1965), in so far as he is liquidating or distributing such estate in pursuance of such directions.

5. Nothing in these regulations contained shall affect the right of any person to continue, after the commencement of these regulations, to liquidate or distribute the estate of a deceased person which he has commenced to liquidate or distribute before such commencement.