



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 253 2001

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 15 of 2001: Administration of Estates Amendment Act, 2001.

**ADMINISTRATION OF ESTATES
AMENDMENT ACT, 2001**

EXPLANATORY NOTE:

- _____ Words underlined with a solid line indicate insertions in existing provisions.
- [] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Administration of Estates Act, 1965, so as to provide that various amounts of money referred to in the Act be prescribed; to increase the fines imposed under the Act; and to provide for incidental matters.

(Signed by the President on 11 December 2001)

BE IT ENACTED by the Parliament of the Republic of Namibia as follows:

Amendment of section 1 of Act No. 66 of 1965, as amended by section 1 of Act No. 54 of 1970, section 1 of Act No. 79 of 1971 and section 1 of Act No. 2 of 1987

1. Section 1 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), in this Act referred to as the principal Act, is amended -

- (a) by the insertion after the definition of "person under curatorship" of the following definition:

"prescribed" means prescribed by regulation; and

- (b) by the insertion after the definition of "property" of the following definition:

"regulation" means a regulation made under section 103;

Amendment of section 18 of Act No. 66 of 1965, as amended by section 1 of Act No. 15 of 1978 and section 5 of Act No. 6 of 1986

2. Section 18 of the principal Act is amended by the substitution for subsection (3) of the following subsection:

“(3) If the value of any [extate] estate does not exceed [R15 000] the amount prescribed, the Master may dispense with the appointment of an executor and give directions as to the manner in which any such estate shall be liquidated and distributed.”.

Amendment of section 28 of Act No. 66 of 1965, as amended by section 3 of Act No. 79 of 1971 and section 9 of Act No. 6 of 1986

3. Section 28 of the principal Act is amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

- “(a) shall, unless the Master otherwise directs, as soon as he or she has in hand moneys in the estate in excess of [R100] the amount prescribed, open a cheque account in the name of the estate with a banking institution in [the Republic] Namibia and shall deposit therein the moneys which he or she has in hand and such other moneys as he or she may from time to time receive for the estate;”.

Amendment of section 30 of Act No. 66 of 1965, as amended by section 3 of Act No. 15 of 1978 and section 11 of Act No. 6 of 1986

4. Section 30 of the principal Act is amended by the substitution for paragraph (b) of the following paragraph:

“(b) thereafter, unless, in the case of property of a value not exceeding **[R5 000]** the amount prescribed, the Master, or, in the case of any other property, the Court otherwise directs,”.

Amendment of section 34 of Act No. 66 of 1965, as amended by section 4 of Act No. 15 of 1978 and section 3 of Act No. 17 of 1981

5. Section 34 of the principal Act is amended -

(a) by the substitution for subsection (2) of the following subsection:

“(2) If the Master is satisfied that the value of the assets in the insolvent estate does not exceed **[thirty thousand rand]** the amount prescribed, the estate shall, subject to the rights of creditors, be liquidated and distributed in such manner as he or she may direct.”; and

(b) by the substitution for paragraph (a) of the proviso to subsection (4) of the following paragraph:

“(a) no creditor whose claim amounts to less than **[sixty rand]** the amount prescribed shall be reckoned in number;”.

Amendment of section 80 of Act No. 66 of 1965, as amended by section 6 of Act No. 15 of 1978

6. Section 80 of the principal Act is amended by the substitution for subsection (2) of the following subsection:

“(2) The Master may at any time authorise -

(a) any alienation of immovable property belonging to a minor or to a person for the administration of whose property a tutor or curator has been appointed, if the value of the particular property to be alienated does not exceed **[ten thousand rand]** the amount prescribed and the alienation would be in the interest of the minor or of such person, as the case may be; and

(b) any mortgage of any such immovable property to an amount not exceeding in the case of any one such minor or person, **[ten thousand rand]** the amount prescribed, if the mortgage is necessary for the preservation or improvement of the property or for the maintenance, education, or other benefit of such minor or person, as the case may be.”.

Act No. 15, 2001

ADMINISTRATION OF ESTATES
AMENDMENT ACT, 2001**Amendment of section 90 of Act No. 66 of 1965, as amended by section 21 of Act No. 6 of 1986**

7. Section 90 of the principal Act is amended by the substitution for the proviso to subsection (1) of the following proviso:

“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] the amount prescribed of the capital amount received for account of the minor or other person concerned.”

Amendment of section 91 of Act No. 66 of 1965, as amended by section 22 of Act No. 6 of 1986

8. The following section is substituted for section 91 of the principal Act:

“91. The Master shall in the month of September of each year cause to be published in the [Official] *Gazette* a list of all amounts of [R100] the amount prescribed or more in the guardian's fund, other than the amounts deposited therein in terms of section 93(3)(a), which have been claimable and have remained unclaimed by the persons entitled thereto for a period exceeding one year but not exceeding three years.”

Amendment of section 93 of Act No. 66 of 1965, as amended by section 4 of Act No. 79 of 1971 and section 23 of Act No. 6 of 1986

9. Section 93 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) Every person carrying on business in [the Republic] Namibia shall in the month of January in each year prepare in the prescribed form and publish in the [Official] *Gazette* a detailed statement in respect of all amounts of [one rand] the amount prescribed or more which were held by him or her or by any agent on his or her behalf in [the Republic] Namibia on the thirty-first day of December of the immediately preceding year and which were not his or her property or subject to any valid lien, but at the time of the preparation of the said statement have remained unclaimed for a period of five years or more by the rightful owners.”

Amendment of section 102 of Act No. 66 of 1965, as amended by section 7 of Act No. 15 of 1978 and section 24 of Act No. 6 of 1986

10. Section 102 of the principal Act is amended -

(a) by the substitution for paragraph (i) of the following paragraph:

“(i) in the case of an offence referred to in paragraph (a), to a fine not exceeding [two thousand rand] N\$30 000 or to imprisonment for a period not exceeding seven years or to both such fine and such imprisonment;”;

(b) by the substitution for paragraph (ii) of the following paragraph:

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“(ii) in the case of an offence referred to in paragraph (b), (c), (d) or (e), to a fine not exceeding [one thousand rand] N\$20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment;”;

(c) by the substitution for paragraph (iii) of the following paragraph:

“(iii) in the case of an offence referred to in paragraph (f) or (g), to a fine not exceeding [two hundred rand] N\$4 000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment;”;

(d) by the substitution for paragraph (iv) of the following paragraph:

“(iv) in the case of an offence referred to in paragraph (h), to a fine not exceeding [one hundred rand] N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;”;

(e) by the substitution for paragraph (v) of the following paragraph:

“(v) in the case of an offence referred to in paragraph (i), to a fine not exceeding [fifty rand] N\$1 000 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.”.

Amendment of section 103 of Act No. 66 of 1965, as amended by section 9 of Act No. 2 of 1987

11. Section 103 of the principal Act is amended by the substitution for subsection (2) of the following subsection:

“(2) Any regulations made under subsection (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of [fifty rand] N\$1 000 or imprisonment for a period of three months.”.

Short title and commencement

12. This Act is called the Administration of Estates Amendment Act, 2001, and comes into operation on a date determined by the Minister of Justice by notice in the *Gazette*.
