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GOVERNMENT NOTICE.

DEPARTMENT OF JUSTICE.

No. R.910.]

[22nd May, 1968.

REGULATIONS PROHIBITING THE LIQUIDATION OR DISTRIBUTION OF THE ESTATES OF DECEASED PERSONS BY ANY PERSON OTHER THAN AN ATTORNEY, NOTARY, CONVEYANCER OR LAW AGENT

By virtue of the powers vested in me by section 30 of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934), I, PETRUS CORNELIUS PELSER, Minister of Justice, after consultation with the presidents of the several law societies, hereby make the regulations set out in the Schedule hereto.

SCHEDULE

REGULATIONS

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; (i)
- (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; (iii)
- (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; (iv)

GOEWERMENTSKENNISGEWING.

DEPARTEMENT VAN JUSTISIE.

No. R.910.]

[22 Mei 1968.

REGULASIES WAARBY DIE BEREDDERING OF VERDELING VAN DIE BOEDEL VAN OORLEDENES DEUR 'N ANDER PERSOON AS 'N PROKUREUR, NOTARIS, TRANSPORTBESORGER OF WETSAGENT VERBOD WORD

Kragtens die bevoegdheid my verleen by artikel 30 van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934 (Wet No. 23 van 1934), vaardig ek, PETRUS CORNELIUS PELSER, Minister van Justisie, na raadpleging met die presidente van die onderskeie wetsgenootskappe, die regulasies in die Bylae hiervan uiteengesit, uit.

BYLAE

REGULASIES

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

- (i) „bankinstelling” ’n bankinstelling soos omskryf in artikel 1 van die Bankwet, 1965 (Wet No. 23 van 1965), en geregistreer of voorlopig geregistreer as ’n bankinstelling van ’n daardie artikel genoemde klas, maar nie ook ’n eksekuteurskamer of trustmaatskappy wat op die sewe-en-twintigste dag van Oktober 1967, as so ’n bankinstelling geregistreer of voorlopig geregistreer was nie; (i)
- (ii) „beredder of verdeel”, met betrekking tot die boedel van ’n oorledene, ook die verrigting van enige ander handeling met betrekking tot die bereddering of verdeling van sodanige boedel as die tegeldemaking, oordrag of waardering van enige van die bates van sodanige boedel of van ’n reg in of op sodanige bates; (iv)
- (iii) „eksekuteurskamer” ’n eksekuteurskamer wat op die sewe-en-twintigste dag van Oktober 1967, as sodanig ingevolge die Wet op Lisensies, 1962 (Wet No. 44 van 1962), gelisensieer was en ’n bedryf uitgeoefen het waarvan ’n aansienlike deel uit die bereddering of verdeling van die boedels van oorledenes bestaan het, maar nie ook so ’n eksekuteurskamer waarin ’n bankinstelling na daardie datum ’n finansiële belang anders as in ruil vir of ter vervanging van enige sodanige belang gehou deur sodanige bankinstelling op daardie datum, verkry het of verkry nie; (ii)

- (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; (ii)
- (v) "Master" means a Master as defined in section 1 of the Administration of Estates Act, 1965 (Act No. 66 of 1965); (v)
- (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. (vi)

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.

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.

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) 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 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;
- (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;

- (iv) „finansiële belang” 'n belang in die aandeel, aandeelkapitaal of bates van 'n eksekuteurskamer of trustmaatskappy uit hoofde waarvan iemand wat sodanige belang besit waarskynlik, regstreeks of onregstreeks, sal deel in 'n geldelike voordeel verkry deur sodanige eksekuteurskamer of trustmaatskappy uit die bereddering of verdeling van die boedels van oorledenes deur sodanige eksekuteurskamer of trustmaatskappy of iemand in diens van sodanige eksekuteurskamer of trustmaatskappy; (iii)

- (v) „Meester” 'n Meester soos omskryf in artikel 1 van die Boedelwet, 1965 (Wet No. 66 van 1965); (v)

- (vi) „trustmaatskappy” 'n trustmaatskappy wat op die sewe-entwintigste dag van Oktober 1967 as sodanig ingevolge die Wet op Lisensies, 1962 (Wet No. 44 van 1962), gelisensieer was en 'n bedryf uitgeoefen het waarvan 'n aansienlike deel bestaan het uit die bereddering of verdeling van die boedels van oorledenes maar nie ook so 'n trustmaatskappy waarin 'n bankinstelling na daardie datum 'n finansiële belang anders as in ruil vir of ter vervanging van enige sodanige belang gehou deur sodanige bankinstelling op daardie datum, verkry het of verkry nie. (vi)

2. Behoudens die bepalings van paragrawe 3 en 4, beredder of verdeel niemand, behalwe 'n prokureur, notaris of transportbesorger, soos omskryf in artikel 1 van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934 (Wet No. 23 van 1934), (hieronder in hierdie regulasies 'n prokureur, notaris of transportbesorger genoem, na gelang van die geval) of 'n in artikel 22 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), bedoelde wetsagent (hieronder in hierdie regulasies 'n wetsagent genoem) die boedel van 'n oorledene nie.

3. Die volgende persone is permanent van die bepalings van paragraaf 2 vrygestel, naamlik—

- (1) 'n eksekuteurskamer;
- (2) 'n trustmaatskappy;
- (3) 'n openbare rekenmeester soos omskryf in artikel 1 van die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), en geregistreer as 'n rekenmeester en ouditeur ingevolge daardie Wet;
- (4) 'n ander persoon as 'n bankinstelling wat op die sewe-entwintigste dag van Oktober 1967 as 'n makelaar of agent ingevolge die Wet op Lisensies, 1962 (Wet No. 44 van 1962), gelisensieer was en 'n bedryf uitgeoefen het wat oorwegend uit die bereddering of verdeling van die boedels van oorledenes bestaan het.

4. Die volgende persone word, in die mate in elke geval bepaal, van die bepalings van paragraaf 2 vrygestel—

- (1) 'n natuurlike persoon wat deur 'n oorledene by 'n testament wat in die kantoor van die Meester geregistreer en aanvaar is tot eksekuteur benoem is, vir sover hy persoonlik die boedel van bedoelde oorledene beredder of verdeel;
- (2) die eggenoot van of 'n persoon wat deur bloed- of aanverwantskap tot en met die tweede graad verwant is aan bedoelde natuurlike persoon, vir sover hy bedoelde natuurlike persoon met die bereddering of verdeling van bedoelde boedel behulpsaam is;
- (3) die langselewende eggenoot van of 'n persoon wat deur bloed- of aanverwantskap tot en met die tweede graad verwant is aan 'n oorledene, vir sover hy die boedel van bedoelde oorledene beredder of verdeel;
- (4) 'n bankinstelling wat op die sewe-entwintigste dag van Oktober 1967, as 'n bankinstelling geregistreer of voorlopig geregistreer is, vir sover sodanige bankinstelling die boedel beredder of verdeel van 'n oorledene deur wie sodanige bankinstelling of 'n beampde of direkteur van sodanige bankinstelling tot eksekuteur benoem is by 'n testament wat in die kantoor van die Meester geregistreer en aanvaar is;
- (5) 'n persoon in die voltydse diens van 'n ander persoon wat wettiglik die boedel van 'n oorledene beredder of verdeel, vir sover hy sodanige ander persoon hulp verleen met of namens hom optree in 'n aangeleentheid met betrekking tot die bereddering of verdeling van sodanige boedel;
- (6) 'n persoon in die voltydse diens van 'n vakvereniging soos omskryf in artikel 1 van die Wet op Nywerheidsversoenings, 1956 (Wet No. 28 van 1956), en as sodanig ingevolge daardie Wet geregistreer, vir sover hy, anders as vir of in die verwagting van enige regstreekse of onregstreekse vergoeding aan homself of 'n ander persoon, die boedel beredder of verdeel van 'n persoon wat ten tyde van sy afsterwe 'n lid van sodanige vakvereniging of die eggenoot van sodanige lid was;

- (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.

P. C. PELSER,
Minister of Justice.

- (7) 'n persoon wat die boedel van 'n oorledene in opdrag van 'n prokureur, notaris of transportbesorger of 'n wetsagent beredder of verdeel, vir sover hy sodanige boedel ooreenkomstig sodanige opdrag beredder of verdeel;
- (8) 'n persoon wat die boedel van 'n oorledene ooreenkomstig opdragte gegee deur die Meester ingevolge artikel 18 (3) van die Boedelwet, 1965 (Wet No. 66 van 1965), beredder of verdeel, vir sover hy sodanige boedel ooreenkomstig sodanige opdragte beredder of verdeel.

5. Die bepalings van hierdie regulasies raak nie die reg van enige persoon om die boedel van 'n oorledene wat hy voor die inwerkingtreding van hierdie regulasies begin beredder of verdeel het na sodanige inwerkingtreding verder te beredder of te verdeel nie.

P. C. PELSER,
Minister van Justisie.

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