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THE PRESIDENCY

No. 1539

5 December 2002

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 47. of 2002: Administration of Estates Amendment Act, 2002.

DIE PRESIDENSIE

No. 1539

5 Desember 2002

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 47 van 2002: Boedelwysigingswet, 2002.



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GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)
(Assented to 4 December 2002.)*

ACT

To amend the Administration of Estates Act, 1965, so as to further regulate the administration of deceased estates which are not governed by the principles of customary law; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Insertion of section 2A in Act 66 of 1965

1. The following section is inserted after section 2 of the Administration of Estates Act, 1965:

“Designation by Minister of service points and of posts of persons to exercise functions on behalf of Master

2A. (1) The Minister may designate posts in, or additional to, the fixed establishment of the Department of Justice and Constitutional Development for the purpose of this section.

(2) Persons appointed to, or acting in, posts which have been designated by the Minister, must exercise the powers and perform the duties delegated to them on behalf of, and under the direction of, the Master.

(3) The Minister may designate places within the area of jurisdiction of a Master as service points where the powers are exercised and the duties are performed on behalf of the Master in terms of subsection (2).

(4) The Minister may delegate any power conferred on him or her in terms of this section to the Director-General: Justice and Constitutional Development or to a person in the Department holding the rank of a deputy Director-General.”

Amendment of section 4 of Act 66 of 1965, as amended by section 1 of Act 86 of 1983, section 26 of Act 57 of 1988 and section 4 of Act 20 of 2001

2. Section 4 of the Administration of Estates Act, 1965, is amended by—

(a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“(1) In respect of the estate of a deceased person which is not governed by the principles of customary law, or of any portion thereof, jurisdiction shall lie—”; and

(b) the insertion after subsection (1) of the following subsection:

“(1A) The Master shall not have jurisdiction in respect of any property if the devolution of the property is governed by the principles of

ALGEMENE VERDUIDELIKENDE NOTA:

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 4 Desember 2002.)

WET

Tot wysiging van die Boedelwet, 1965, ten einde die bereddering van bestorwe boedels wat nie ingevolge die beginsels van die gewoontereg gereguleer word nie, verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Invoeging van artikel 2A in Wet 66 van 1965

1. Die volgende artikel word na artikel 2 van die Boedelwet, 1965, ingevoeg:

“Aanwysing deur Minister van dienspunte en van poste van persone wat werksaamhede namens Meester verrig 5

2A. (1) Die Minister kan poste op of bykomend tot die vaste diensstaat van die Departement van Justisie en Staatkundige Ontwikkeling aanwys vir doeleindes van hierdie artikel.

(2) Persone wat aangestel is of waarneem in poste wat deur die Minister aangewys is, moet die bevoegdhede uitoefen en pligte uitvoer wat aan hulle gedelegeer is namens en in opdrag van die Meester. 10

(3) Die Minister kan plekke binne die jurisdiksiegebied van 'n Meester aanwys as dienspunte waar die bevoegdhede en pligte namens die Meester ingevolge subartikel (2) uitgeoefen en uitgevoer word. 15

(4) Die Minister kan enige bevoegdheid wat ingevolge hierdie artikel aan hom of haar verleen word, aan die Direkteur-generaal: Justisie en Staatkundige Ontwikkeling of aan 'n persoon wat die rang van Adjunk-direkteur-generaal in die Departement beklee, delegeer.”

Wysiging van artikel 4 van Wet 66 van 1965, soos gewysig deur artikel 1 van Wet 20 86 van 1983, artikel 26 van Wet 57 van 1988 en artikel 4 van Wet 20 van 2001

2. Artikel 4 van die Boedelwet, 1965, word gewysig—

(a) deur die woorde wat paragraaf (a) in subartikel (1) voorafgaan, deur die volgende woorde te vervang:

“(1) Ten opsigte van die boedel van 'n oorledene wat nie ingevolge die beginsels van die gewoontereg gereguleer word nie, of van enige gedeelte daarvan, berus die regsbevoegdheid—”; en 25

(b) deur die volgende subartikel na subartikel (1) in te voeg:

“(1A) Die Meester het geen regsbevoegdheid nie ten opsigte van goed indien die verdeling van die goed ingevolge die beginsels van die gewoontereg gereguleer word, of van die boedel van 'n persoon indien 30

customary law, or of the estate of a person if the devolution of all the property of the person is governed by the principles of customary law, and no documents in respect of such property or estate shall be lodged with the Master, except a will or a document purporting to be a will.”.

Amendment of section 23 of Act 38 of 1927, as amended by section 7 of Act 9 of 1929, section 2 of Act 34 of 1986 and section 10 of Act 108 of 1991 5

3. Section 23 of the Black Administration Act, 1927, is amended by the deletion in subsection (7) of paragraph (a).

Short title and commencement

4. (1) This Act is called the Administration of Estates Amendment Act, 2002, and shall come into operation on 5 December 2002 or any earlier date as the President may determine by proclamation in the *Gazette*. 10

(2) This Act applies in respect of the estates of persons who died on or after the date of commencement of this Act.

die verdeling van al die goed van die persoon ingevolge die beginsels van die gewoontereg gereguleer word, en geen dokumente word ten opsigte van sodanige goed of boedel by die Meester ingedien nie, behalwe 'n testament of 'n dokument wat 'n testament heet te wees.'.

Wysiging van artikel 23 van Wet 38 van 1927, soos gewysig deur artikel 7 van Wet 9 van 1929, artikel 2 van Wet 34 van 1986 en artikel 10 van Wet 108 van 1991 5

3. Artikel 23 van die Swart Administrasie Wet, 1927, word gewysig deur paragraaf (a) van subartikel (7) te skrap.

Kort titel en inwerkingtreding

4. Hierdie Wet heet die Boedelwysigingswet, 2002, en tree op 5 Desember 2002 in werking of op enige vroeëre datum as wat die President by proklamasie in die *Staatskoerant* bepaal. 10

(2) Hierdie Wet is van toepassing op die boedels van persone wat op of na die datum van inwerkingtreding van hierdie Wet te sterwe gekom het.

