

## DECEASED ESTATES WORKSHOP SMALL ESTATES

### 1. "Small" estates

- 1.1 A "small" estate, is an estate with a gross value of less than the amount fixed by the Minister from time to time — at present not exceeding **R125,000**.
- 1.2 It is logical to enforce measures to protect beneficiaries in small estates but formalities to protect beneficiaries may be costly. Protective measures have no merit if the cost consumes a substantial part of the estate.
- 1.3 **ProBono.org** offers a new facility at the Master's office to assist beneficiaries by providing once-off advice on reporting and finalising small estates without any delay or costs. **ProBono.org** is a good example of taking the law to the people.

### 2. Home Affairs (<http://www.home-affairs.gov.za/>)

In order to assist with obtaining required documents to report a small estate, the following information is made available:

#### 2.1 Getting copies of birth certificates

- 2.1.1 If you need copies of an abridged birth certificate (which could be either computer printed, a certified copy of the birth register or hand written) or copies of an unabridged birth certificate you must complete **Form BI-154** and submit it to the nearest office of the Department of Home Affairs if you are in South Africa, or the nearest South African embassy, mission or consulate if you are overseas and pay the required fee for the application

#### 2.2 Marriage certificates

- 2.2.1 Copies of a marriage certificate can be requested by completing [Form BI-130](#) and submitting it to the nearest office of the Department of Home Affairs and paying the prescribed fee.
- 2.2.2 The first issue of an abridged marriage certificate is free, and a re-issue is R15.00.

#### 2.3 Customary Marriages

- 2.3.1 Customary marriages must be registered within three months of taking place. This can be done at any office of the Department of Home Affairs or through a designated traditional leader in areas where there are no Home Affairs offices.
- 2.3.2 The following people should present themselves at either a Home Affairs office or a traditional leader in order to register a customary marriage:

- 2.3.2.1 the two spouses (with copies of their valid identity books and a lobola agreement, if available)
- 2.3.2.2 at least one witness from the bride's family
- 2.3.2.3 at least one witness from the groom's family
- 2.3.2.4 and/or the representative of each of the families
- 2.3.3 In the event that the spouses were minors (or one was a minor) at the time of the customary marriage, the parents should also be present when the request to register the marriage is made.
- 2.3.4 Customary marriages are registered by completing **BI-1699** and paying the required fees.
- 2.4 Registering more than one customary marriage
  - 2.4.1 If a male person is already in a customary marriage and wishes to enter into another customary marriage he has to, at his own cost, get a court order from a competent court which will regulate his future matrimonial property system.
  - 2.4.2 It is also possible for a male person who is already in a customary marriage to enter into a civil marriage. They should follow the normal procedure for civil marriages.
- 2.5 Civil Unions
  - 2.5.1 The Civil Union Act (effective from December 2006) allows anyone – regardless of their sexual orientation – to marry either through a civil union, a civil marriage or a customary marriage. Civil unions may be conducted by designated marriage officers for specific religious denominations or organisations or designated officers employed by the Department of Home Affairs and the Magistrates' Courts.
  - 2.5.2 At least two competent witnesses must be present at the ceremony.
- 2.6 Requirements for registering a Civil Union
  - 2.6.1 Both persons must be 18 years or older to enter into a Civil Union and may not be already married in terms of any other Act.
- 2.7 Documents required to conclude a Civil Union
  - 2.7.1 Valid South African identity books for both persons entering into the Civil Union
  - 2.7.2 A valid passport if one of the partners is a foreign national
  - 2.7.3 A completed **Form DHA-1763** (Declaration for the Purpose of Marriage)
  - 2.7.4 Form DHA-1766 (Civil Union register), which must be completed by the marriage officer
  - 2.7.5 A completed Form **DHA-1764** (Registration of a Civil Union) in which the couple must indicate whether or not they are entering into a Civil Union marriage or a Civil Union partnership

- 2.7.6 A copy of the Divorce Order if one of the partners was previously married but subsequently divorced.
- 2.8 If any of the required documentation cannot be produced, one of the partners must submit an affidavit confirming the documents cannot be made available for the purpose of concluding the Civil Union.
- 2.9 Registering a death
- 2.9.1 The Births and Deaths Registration Act requires that a person's death be reported to any one of the following people:
- 2.9.1.1 Specific officers at the Department of Home Affairs
  - 2.9.1.2 South African Police Service members, especially in areas where the Department of Home Affairs has no offices
  - 2.9.1.3 South African mission, embassy or consulate, if the death occurred abroad
  - 2.9.1.4 Funeral undertakers who are appointed and recognised by the law
- 2.9.2 **Form BI-1663** (Notification of death/still-birth) must be completed when reporting a death. The following people have to complete different sections of this form:
- 2.9.2.1 The person reporting the death
  - 2.9.2.2 A medical practitioner (where a medical practitioner is not available to complete this form, in rural areas for example, a traditional leader may complete the form)
  - 2.9.2.3 A Home Affairs official (where an official from the Department of Home Affairs is not available then a member of the SA Police Services may be approached to complete the form)
- 2.9.3 A Death Report (**Form BI-1680**) will be issued after a death has been registered. This report can be issued only by someone whom the Department of Home Affairs has authorised to do so (this includes traditional leaders, members of the SA Police Services and authorised undertakers).
- 2.9.4 These designated people may also issue burial orders and a burial can only take place if authorised with a burial order (**Form BI-14**).
- 2.10 Issuing of death certificates
- 2.10.1 The Department of Home Affairs will issue a Death Certificate on receipt of the notification of death (**Form BI-1663**) and the Death Report (**Form BI-1680**).
- 2.10.2 Applications for a Death Certificate must be lodged at any office of the Department of Home Affairs or at any South African embassy, mission or consulate if the death occurs abroad.
- 2.10.3 An abridged death certificate will be issued free of charge on the same day of registration of death. An unabridged death certificate

can be obtained by completing **Form BI-132** and paying the required fee.

<b>Birth certificates</b>		
<a href="#">BI-154</a> -	Birth certificate copy application	Special specifications and requirements regarding the processing of this form apply and it may therefore not be downloaded for use as an application or registration form.
<b>Marriage</b>		
<a href="#">BI-31</a>	Declaration for the Purpose of Marriage, Letter of no impediment	
<a href="#">BI-130</a>	Marriage certificate copy application	
<b>BI-1699</b>	Registering a customary marriage	
<b>Civil unions</b>		
<b>BI-1763</b>	Declaration for the Purpose of Marriage	
<b>BI-1766</b>	Civil Union register	
<b>BI-1764</b>	Registration of a Civil Union	
<b>Deaths</b>		
<b>BI-1663</b>	Notification of death/still-birth	
<b>BI-1663</b>	Notification of death	
<a href="#">BI-132</a>	Abridged death certificate application	