



CHIEF MASTER'S DIRECTIVE 1 OF 2017

1. PURPOSE

The purpose of this directive is to ensure uniformity in respect of the way in which the Guardian's Fund deals with Future Maintenance Funds deposited with the Master.

2. MOTIVATION / BACKGROUND

2.1 Based on the judgement in *Government Employees Pension Fund v Francina H Bezuidenhout and Another (Transvaal Provincial Division)* case number 2113/04 the Maintenance Courts (Magistrate Courts) are making court orders wherein banks or pension funds are instructed to pay future maintenance into the various Guardian's Funds.

2.2 The Master is then authorized to receive a certain lump sum and to deposit it in the Guardian's Fund in the name of the respondent for the benefit of the respondent as well as certain minor children.

The Master is then also ordered to make specific payments out of the deposit to the relevant clerk of the court or to the complainant, as from a certain date.

- 2.3 Once the duty of support lapses the respondent would be entitled to such sum, if any, which still stands to his credit in the Guardian's Fund.
- 2.4 The Master is currently accepting such funds in the Guardian's Fund.
- 2.5 In paragraph 22 and 24 of the said judgement, the learned judge made it very clear that future maintenance must earn interest.
- 2.6 Section 88(1) of the Administration of Estates Act stipulates under which circumstances interest will be payable on moneys deposited in the Guardian's Fund.
- 2.7 The Office of the Chief Master obtained a legal opinion with regards to whether or not the Master should accept the payment of future maintenance into the Guardian's Fund, and if so, under which circumstances and conditions.
- 2.8 The Legal Opinion and its consequences have been discussed with the Office of the CFO as well as the Director General of Justice.

3. THE FOLLOWING HAS BEEN DECIDED:

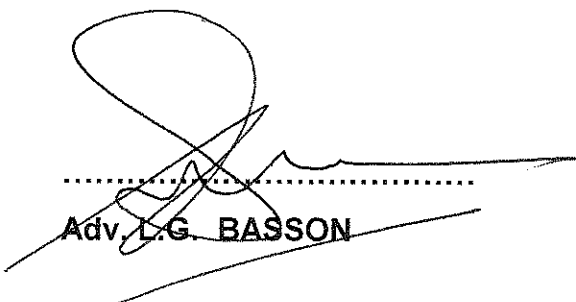
3.1 Dealing with Future Maintenance

- i) The Masters will currently continue as is. The principle of receiving funds in the Guardians Fund will be applicable. All offices must use the same procedures.
- ii) Interest must be paid on future maintenance monies received for **minors**.

- iii) Moneys received in the name of a major will not bear interest.
- iv) Future maintenance will be given back to the courts by end of the financial year 2017/2018 to be administrated by way of MOJA.
- v) There will currently be no amendment on legislation.

4. EFFECTIVE DATE

This Directive will come into effect as from 14/2/..... 2017.



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Adv. L.G. BASSON

CHIEF MASTER

DATE.....13/2/2017.....