



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

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**CIRCULAR 25 OF 2018
(HEAD OFFICE FILE 12/4/1 & 12/4/2)**

**CHIEF MASTERS DIRECTIVE 1 OF 2018 – INTEREST ON FUTURE
MAINTENANCE IN THE GUARDIAN'S FUND AND AGE OF MAJORITY IRO SECT
91 ADVERTISEMENTS**

1. Your attention is drawn to the contents of the attached Directive with regards to INTEREST ON FUTURE MAINTENANCE IN THE GUARDIAN'S FUND AND AGE OF MAJORITY IRO SECT 91 ADVERTISEMENTS
2. This Directive is effective from **1 APRIL 2018** and should be implemented as such.
3. Any enquiries should be addressed in writing to the Office of the Chief Master.


**Mrs T Bezuidenhout
Acting Chief Master**

28/3/2018



CHIEF MASTER'S DIRECTIVE 1 OF 2018

1. PURPOSE

1.1 The purpose of this directive is to ensure uniformity in respect of the way in which the Guardian's Fund deals with the following:

- i) Interest on Future Maintenance Funds deposited with the Master and
- ii) Age of majority when preparing the advertisement in terms of Section 91 of the Administration of Estate Act 66 of 1965 (the Act).

1.2 This Directive is issued in terms of:

- i) Section 3 of the Judicial Matters Amendment Act, 2005 which requires the Chief Master to "exercise control, direction and supervision over all the Masters".
- ii) Section 2(1) of the Administration of Estates Act 66 of 1965.
- iii) This directive recalls all prior Directives, Circulars or instructions regarding these subjects, with effect from 1 April 2018.

2. MOTIVATION / BACKGROUND

2.1 Interest on Future Maintenance:

The Master is currently accepting funds from banks or pension funds who have been instructed by court order (the Maintenance Courts (Magistrate Courts)) to pay future maintenance into the various Guardian's Funds.

2.1.1 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.

2.1.2 Currently most of these funds have been deposited into interest bearing accounts, but relooking the legal opinion which the Office of the Chief Master previously obtained 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, and discussing of this opinion and it's consequences with the Office of the CFO, the Office of the Chief Master and CFO are in agreement that the funds should not bear interest, *unless the court order expressly orders it to bear interest.*

2.2 Age of majority:

2.2.1 In terms of section 91 of the Act, monies which have been claimable but unclaimed for a period of 1 year, but not exceeding 3 years, need to be advertised in September each year.

2.2.2 As a result of the change of the age of majority in July 2007 the Guardian's Fund started using 2 different methods to identify the relevant unclaimed funds. In both instances the 1 year and 3 year is worked from September to September, depending to the dates of deposit- relating to the change of the majority.

2.2.2.1 In the first method, eighteen (18) is used as the age of majority and to identify the accounts of Beneficiaries (19 plus 3) in the month of September

2.2.2.2 In the second method the age of twenty-one (21) is used as the age of majority and to identify the accounts of the Beneficiaries (22 plus 3) in the month of September.

2.2.3 In the Guardians Fund workshop in December 2017 a decision was taken that the use of different methods should be abolished.

3. THE FOLLOWING HAS BEEN DECIDED:

As part of the Chief Master's statutory obligations, a decision has been made to implement the following recommendations to ensure uniformity in all Master's Offices:

3.1 Interest on Future Maintenance

- i) No funds received in respect of Future maintenance will accumulate interest as from 1 April 2018, *unless the court order expressly ordered it to bear interest.*
 - a. Any future maintenance funds received in interest-bearing accounts, *prior to 1 April 2018 and where the court order did not expressly order it to bear interest*, must be identified and a call logged to move the funds to a no-interest account and rectify any interest calculations done.
 - b. Any future maintenance deposits received *as from 1 April 2018* must be allocated to a no-interest account, *unless the court order expressly ordered it to bear interest.*

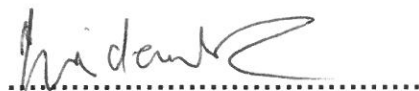
- ii) No future maintenance claim may be processed from an interest bearing account (*where the court order did not expressly order it to bear interest*).
 - a. Such funds must first be moved to a no-interest account and any interest calculations rectified, before the application may be processed.
 - b. In the month of April 2018 only, we will allow for payments to be processed from the interest bearing account, as there will be no interest implications.
 - c. All Future maintenance interest bearing accounts must be moved before the end of April 2018.

3.2 Age of majority

As from 2018, only the age of eighteen (18) will be used as the age of majority to advertise unclaimed funds in September.

4. EFFECTIVE DATE

This Directive will come into effect as from 1 April 2018.



Mrs. T Bezuidenhout
ACTING CHIEF MASTER

DATE..... 28/3/2018