



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## Government Notice

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### OFFICE OF THE PRIME MINISTER

No. 367

2018

#### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 22 of 2018:    Administration of Estates Amendment Act, 2018.

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**Act No. 22, 2018      ADMINISTRATION OF ESTATES AMENDMENT ACT, 2018****EXPLANATORY NOTE:**

- \_\_\_\_\_ Words underlined with a solid line indicate insertions in existing provisions.
- [            ] Words in bold type in square brackets indicate omissions from existing provisions.

**ACT**

**To amend the Administration of Estates Act, 1965, so as to further protect the interest of minors and persons under curatorship; to further provide for the protection of estate monies and assets; and to provide for incidental matters.**

*(Signed by the President on 21 December 2018)*

**BE IT ENACTED** as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

**Amendment of section 1 of Act No. 66 of 1965 as amended by Act No. 54 of 1970, Act No. 79 of 1971, Act No. 2 of 1987 and Act No. 15 of 2001**

1. Section 1 of the Administration of Estates Act, 1965, (in this Act referred to as “the principal Act”) is amended -

(a) by the substitution for the introductory words of the following -

“(1) In this Act, unless the context otherwise indicates -”;

(b) by the deletion of the definition of “Cabinet”; and

(c) by the insertion of the following subsection after subsection (1) -

“(2) For the purpose of this Act -

(a) any reference to the expression “Cabinet” must be construed as a reference to the “Minister”; and

(b) any reference to the expression “minor” or “minors” or the expression “majority” when used with reference to a “minor” must be construed as a reference to a person who has not attained the age of twenty one years.”.

**Amendment of section 87 of Act No. 66 of 1965 as amended by Act No. 2 of 1987**

2. Section 87 of the principal Act is amended -

(a) by the substitution for subsection (2) of the following subsection -

“(2) The Minister, after consultation with the Master and with the concurrence of the Minister responsible for finance, may by notice in the Gazette determine the governance framework for

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investment of moneys, in the cheque account referred to in subsection (1), which are not required for immediate use.”; and

(b) by the addition of the following subsection after subsection (2) -

“(3) The Auditor-General must annually, not later than a date to be determined by the Master, audit the books of account, accounting statements and annual financial statements of the guardian’s fund and shall submit a copy of the report on the audit to the Minister and the Master.”.

**Insertion of section 87A in Act No. 66 of 1965**

3. The following section is inserted after section 87 of the principal Act -

**“Payment of certain moneys in respect of minors and persons under curatorship**

**87A.** (1) Notwithstanding any other law, any money and interest on any money -

- (a) that is payable in respect of a minor or a person under curatorship which money derives from a long term insurance policy in favour of a minor or a person under curatorship; or
- (b) that is payable in respect of a minor or a person under curatorship which money derives from an annuity, pension fund, a bequest in a deceased estate or any other source nominating a minor or a person under curatorship or a trust in favour of a minor or a person under curatorship,

shall be paid directly to the guardian’s fund within a period of thirty days after the date upon which the amount became payable.

(2) Any person who fails to pay over any money in terms of subsection (1), shall pay the prescribed interest on the amount that is payable and any interest earned on the amount as from the due date until the date of payment of the money into the guardian’s fund as contemplated in that subsection.

(3) The Master may with approval of the Minister, on good cause shown, in writing exempt any person, in whole or in part, from any liability which he or she may have incurred under subsection 2.”.

**Amendment of section 88 of the Act No. 66 of 1965 as amended by Act No. 2 of 1987**

4. Section 88 of the principal Act is amended by the substitution for subsection (1) of the following subsection -

“(1) Subject to the provisions of subsections (2) and (3), interest calculated on a monthly basis at the rate per annum determined from time to time by the [Cabinet] Minister, with the concurrence of the Minister responsible for finance and compounded annually at the thirty first day of March, shall be allowed on each [rand] Namibia Dollar of the principal of every sum of money received by the Master for account of any minor, person under curatorship,

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deceased estate, [lunatic] mentally ill person, unborn heir or any person having an interest therein or a usufructuary, fiduciary or fideicommissary nature.”.

**Amendment of section 103 of the Act No. 66 of 1965 as amended by Act No. 2 of 1987**

5. Section 103 of the principal Act is amended by the substitution for the introductory phrase to subsection (1) of the following introductory phrase -

“The Minister, after consultation with the Master, may make regulations -”.

**Short title**

6. This Act is called the Administration of Estates Amendment Act, 2018.

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