

Volume 6 | 2013

JUSTICE TODAY

The Magazine of the Department of Justice & Constitutional Development



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the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



STAND TOGETHER FOR RIGHTS

Juayela i Justice

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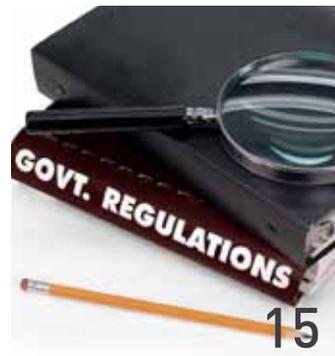
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Editorial.



Luyanda Makapela | Editor

Service delivery continues to be at the core of government's business. In this edition we, once again, share with you highlights on the work done by the Department of Justice and Constitutional Development in improving systems to accelerate service delivery for all people in South Africa.

As one of our main priorities, the Office of the Chief Master, which looks after the interests of vulnerable groups, including minor children, has made remarkable progress in improving services at the service points nationwide.

In keeping abreast with modern technology, readers will get to know about the new Paperless Estate Administrations System (PEAS) which comes as a relief to both officials and members of the public in dealing with the deceased estates.

This system, which enhances the delivery of master's services, replaces the old manual method which was daunting, time consuming and often caused unnecessary delays. The amazing benefits of using this system have already been

experienced as it was first rolled out at the Master of the High Court: Nelspruit Office in 2012.

Technology is fast becoming a solution when dealing with service delivery matters as you will further read about the introduction of Paperless Estate Administration System for Trusts (PEAST). This is another step taken by the department in providing a speedy and cost effective service in the administration of trusts within the Master's environment.

There are interesting developments that you will read about within the administration of insolvencies. Positive measures have been introduced to prevent corruption and abuse in this area whilst the department is currently drafting legislation to regulate operations within the industry.

We continue to encourage you to read, and understand the core business of the department. Remember to unwind by filling in the crossword puzzle. Read and enjoy the rest of your *Justice Today!* 📖

Luyanda Makapela

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**MASTERS CONTINUALLY IMPROVE
SERVICE TO BENEFICIARIES.**

Glory Msungwa

The Office of the Chief Master commits to give members of the public full confidence that their estates and trusts are regulated with compassion and in compliance with the law.

The Masters' offices are situated in Bloemfontein, Cape Town, Kimberly, Mafikeng; Nelspruit; Durban; Pietermaritzburg; Pretoria; Port Elizabeth; Umtata; Bisho; Grahamstown; Polokwane; Thohoyandou and Johannesburg.

According to the Chief Director in the Office of the Chief Master, Advocate Martin Mafojane, out of the 15 offices, only six (6) assists with the Guardian's Fund, while the other nine (9) offices and 15 service points, including magistrates' courts, provide verification through MOVIT (Master's Own Verification System).

Service points process and send applications to one of the six (6) Masters' offices and, according to Advocate Mafojane, a client is assisted quickly as if they went to one of the main offices countrywide. The main Masters' offices are Pretoria, Bloemfontein, Kimberly, Pietermaritzburg, Grahamstown and Cape Town.

"When these payments are made, it's mostly those who take care of the beneficiaries than the actual beneficiary of the fund. When real beneficiaries eventually claim, they get shocked when they find out that their monies have been paid out."

To avoid issues of fraud and corruption in these offices, the department has forged ties with the Department of Home Affairs to in the administration of the deceased estates. "Fraud is prevalent when it comes to the identity of beneficiaries and when claims are made from the Guardian's Fund," said Advocate Mafojane.

He mentioned that in some cases, a legal guardian would claim from the Guardian's Fund on behalf of the beneficiary whilst the money claimed is not for the use of the beneficiary. "When these payments are made, it's mostly those who take care of the beneficiaries than the actual beneficiary of the fund. When real beneficiaries eventually claim, they get shocked when they learn that their monies have been paid out," he explained.

Master's office developed MOVIT where a person who received an Identity Document (ID) after 1995, when verified by taking a thumb print, the results do not only give the details, but also show a picture of that particular person as stored in the Department of Home Affairs database.

In enhancing the service delivery in the service points, Advocate Mafojane said the Integrated Case Management System (ICMS) is used in all magistrates' courts to deal with deceased estates and officials have been trained to capture and scan estate cases.

He added that with all offices now using Electronic Funds Transfer (EFT) system, fraud is being minimised at all costs as the system is faster and better, unlike issuing cheques. Other internal processes identified for the smooth functioning of the office is the Paperless Estate Administration System (PEAS) which was first piloted by the Master of the High Court: Nelspruit in 2012.

Since then, the system was rolled out in the Durban, Johannesburg, Pretoria and Cape Town offices. PEAS is an enhancement of the ICMS and it allows matters to be registered electronically at the service points and an approval is made without a person having to travel to the master's office.

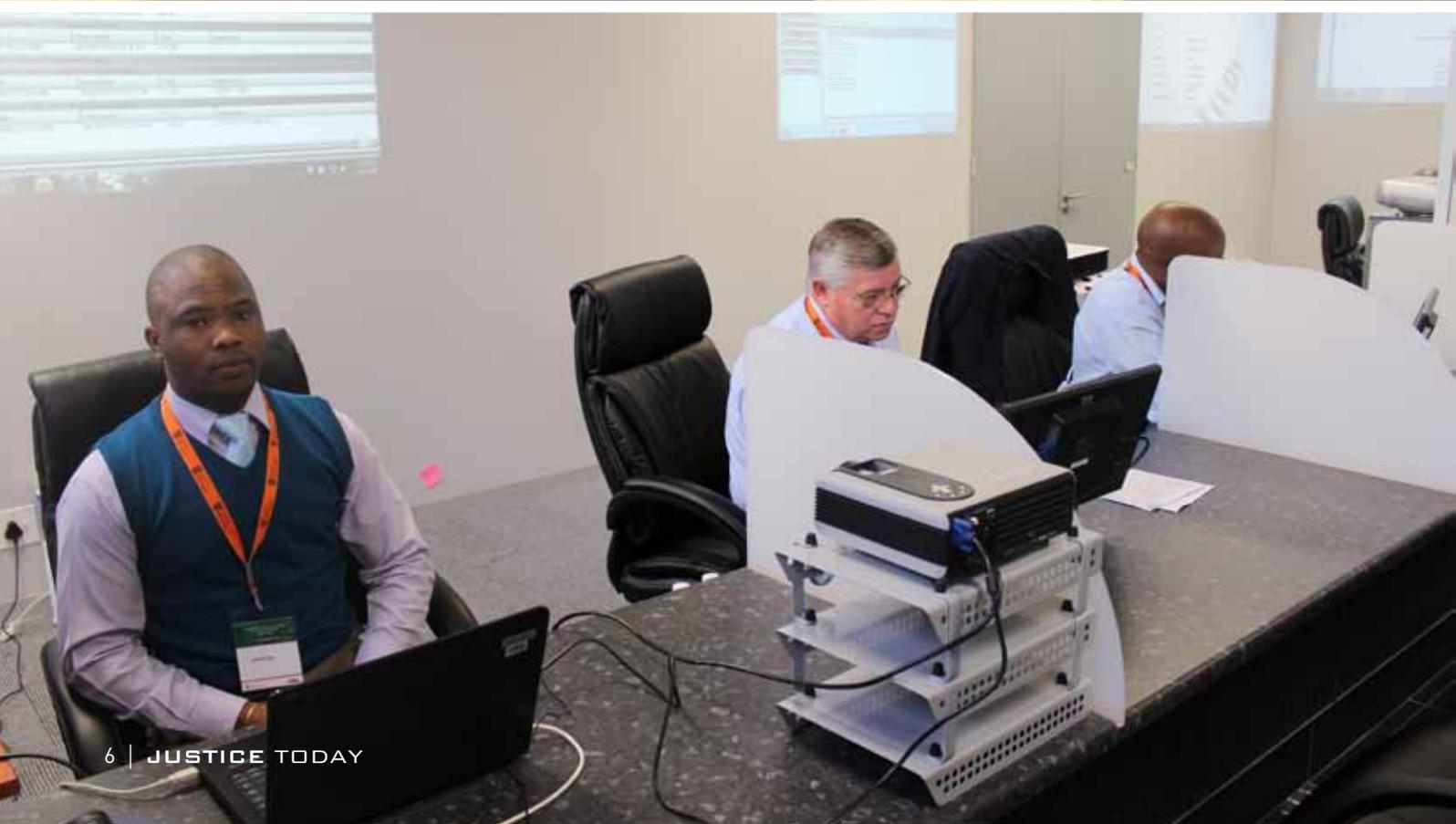
"This system is also able to generate a follow-up reminder on its diary to make sure that all matters are handled within the time-frame given by the system itself. It has resolved problems of looking for files manually and so far it has been working smoothly. Information can be easily accessed electronically at any service point," explained Advocate Mafojane.

Although shortage of staff is a challenge in the Office of the Chief Master, the vacancy rate is currently sitting at 2%. "We are one of the sections that have the lowest vacancy rate and in speeding up the process, the management is hands-on in filling every post," concluded Advocate Mafojane. 



THE MASTER'S OFFICES EXECUTE, AMONG OTHERS, THE FOLLOWING:

- The administration of estates of deceased and insolvent persons in accordance with the applicable statutory prescriptions
- The protection of the interests of minors and legally incapacitated persons
- The protection of administration of the funds of minors, contractually incapacitated and undetermined and absent heirs, which have been paid into the Guardian's Fund;
- The supervision of the administration of insolvent companies and close corporations in accordance with the relevant statutory prescription
- The determination and assessment of estate duties in terms of the Estate Duty Act, 1955 (Act 45 of 1955), by virtue of a delegation by the South African Revenue Services;
- The supervision of trusts in terms of the Trust Property Control Act, 1988
- The safeguarding of all documentary material received by the Master in respect of estates, insolvencies, liquidations, trusts etc.
- The processing of enquiries by executors, attorneys, beneficiaries and other interested parties
- The appointment of impartial and capable persons as executors, trustees, curators and liquidators.





Ms Zureena Agulhas, Cape Town Master in her new office at the Dullah Omar Building, which was recently opened by Minister Jeff Radebe.

CAPE TOWN MASTER EMBARKS ON PAPERLESS SYSTEM.

Mokgethwa Ngoepe

The new digital filing system of documents shows that the department is keeping abreast with modern technology. The Paperless Estates Administration System (PEAS) comes as a relief to many officials and will speed the delivery of services in the Master of the High Court: Cape Town.

Scanning clerks, estate controllers, assistant and deputy masters, as well as the master are now confident that filed documents of the deceased estates are well captured on the system.

“PEAS came at a right time when we needed it most,” said the Cape Town Master Ms Zureena Agulhas, adding that the deceased estate files sometimes got misplaced due to the old manual filing system which was used, often resulting in delays. Ms Agulhas further mentioned that her office is at a stage where they can say they are serving the community with pride. “The new electronic system (PEAS) is not only beneficial to the public but also to employees as they can now do their work faster and with ease,” she remarked.

The system was rolled out at the Cape Town office on 2 September this year, making it the fifth Master’s office to use PEAS. Despite these improvements, officials can only assist members of the public who have brought all the relevant documents.

Explaining the process of reporting a deceased estate using PEAS, Assistant Master, Ms Wendy Sithole, said an estate controller consults and assists a client in completing the documents for reporting of the deceased estate. “When information is captured on the system, all other reporting documents get pre-populated by the system. After capturing, the scanner clerk scans the matter before it goes to the Master for consideration of a letter of authority,” she explained.

Ms Sithole further indicated that after scanning supporting documents such as a death notice, inventory, next of kin affidavit, a will, if applicable, death certificate, certified copies of the applicant, declaration of subsisting marriages, information is then transferred to the assistant master’s work schedule for approval.

The Master only issues out a letter of authority if an estate is below R125 000. “Anything exceeding this amount goes to the Chief Master to issue out a letter of executorship,” explained Ms Sithole. The executor has six (6) months after the date of appointment in which to lodge a full Liquidation and Distribution Account (LDA) with the Master. This account is a detailed report indicating all liabilities and assets, the anticipated inheritance and beneficiaries as well as income and expenditure items that arose after the date of death.

“The new electronic system (PEAS) is not only beneficial to the public but also to employees as they can now do their work faster and with ease.”

Currently, Masters’ offices are in the following areas; Pretoria; Cape Town; Pietermaritzburg; Port Elizabeth; Grahamstown; Bisho; Mthatha; Bloemfontein; Kimberley; Mmabatho/Mafikeng; Johannesburg; Durban; Polokwane, Thohoyandou and Nelspruit.

One of the community members, Ms Octavia Mathunyane said whilst she did not understand the new system, she has noticed the difference. “I am happy to have received a letter of authority timely. Previously, we used to receive a letter of authority after two weeks but today it was immediate, I really appreciate that,” concluded Ms Mathunyane. 📄

MP MASTER'S OFFICE BRINGS JUSTICE CLOSER TO THE PUBLIC.

Glory Msungwa



Embarking on a long distance can be stressful and inconvenient when members of the public have to travel more than 100km to receive services, especially if they cannot afford transport costs.

In fulfilling its responsibility to deliver efficient services to the public, the Department of Justice and Constitutional Development opened the first ever Master of the High Court: Nelspruit on 28 May 2012 in Mpumalanga. The office renders services such as the administration of deceased estates and the administration of the Guardian's Fund.

This office was the first to use a system called Paperless Estate Administration System (PEAS). The system is an enhancement of the Integrated Case Management System (ICMS) which allows matters to be registered at the service points and approval made at the main Master's office without travelling between offices.

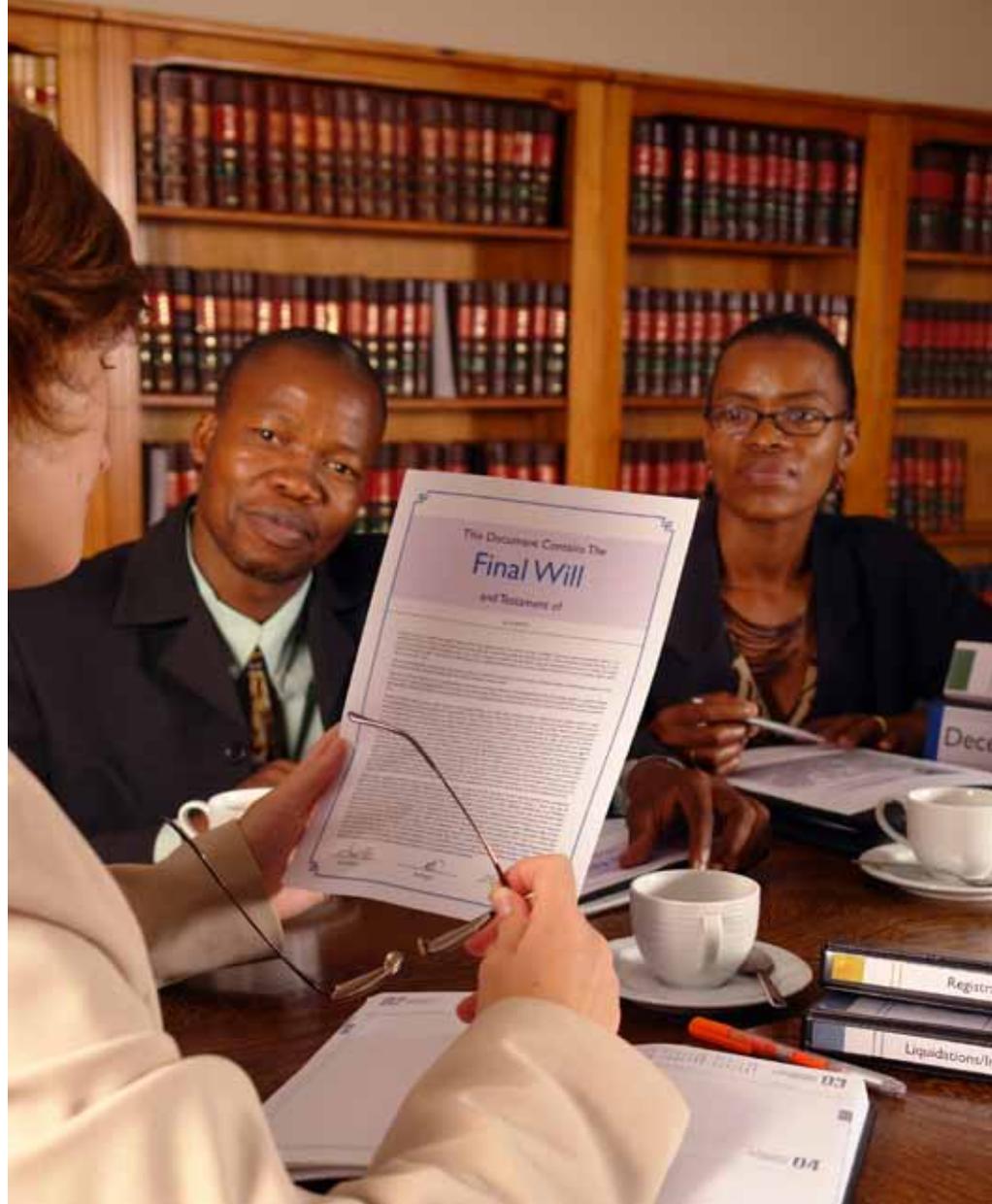
"The system is able to generate a follow-up reminder on its diary to make sure that all matters are handled within the time frame given out by the system itself," explained Ms Bina Masuku, Acting Master of the High Court: Nelspruit.

She said the system is working smoothly, and has been decentralised to Nelspruit, Barberton and the Mapulaneng Magistrate's Court with the aim of bringing justice services closer to the public. "Community members are now able to access services at the nearest service points," added Ms Masuku.

Service has improved in the deceased estates as the public can also access the services at the Mapulaneng Magistrate's Court in Bushbuckridge, 100 km outside of Nelspruit. Ms Masuku mentioned that the service point was opened in 2012 following the opening of the Nelspruit office. The aim was to ease the workload at the main Master's office.

The Bushbuckridge service point only offers the administration of deceased estates and uses PEAS. "We serve more than ten communities under our jurisdiction that previously had to travel 100km to the Nelspruit office. This was not convenient for them at. With this system, matters are finalised on time when an applicant brings all the required documentation," expressed Mapulaneng Court Manager, Mr Moses Muravha.

He further explained that the reason his office is still sending people to the Nelspruit office for assistance is because



the office only deals with estates that do not exceed the value of R50 000. "We assess the value of the property and if it exceeds R50 000, the estate is referred to Nelspruit office," said Mr Muravha.

He added that all documents are scanned and filed electronically but the supporting documents in hardcopies are safely stored.

Ms Precious Tebogo Phaswana, an Admin Clerk at the Mapulaneng Magistrate's Court, who is the only official dealing with the administration of the deceased estates said, so far, the system has been working well and reduced the time of finalising matters. "Capturing information is simple, unlike doing it manually, going back and forth, although we still do it manually when there is a network problem or if the system is not running," explained Ms Phaswana.

She added that the system can easily correct wrong ID numbers and calculations when done and captured

incorrectly. "If you capture an incorrect ID number, the system stops. We serve six to eight people per day and I always make sure that they get assisted before they leave, even if it means skipping my lunchtime," said Ms Phaswana.

"Community members are now able to access services at the nearest service points."

Ms Elsie Maoko from Zoeknog Village in Bushbuckridge said even though she did not know that the office was using a new system or how deceased estates were previously dealt with, she was, however, impressed by the services she received at the Mapulaneng Magistrate's Court.

"They assisted me on the same day, there were no problems except that I did not have the required documents from my children's school which I took to the office the following day and everything was finalised," expressed Ms Maoko. 



A POLICY TO TRANSFORM INSOLVENCY INDUSTRY UNDER WAY.

Luyanda Makapela

"The policy will provide a new transparent and uniform system of appointing insolvency practitioners, with measures to prevent fraud and corruption."

Transformation of insolvency procedures through the abolition of a requisition system is in the cards as the Department of Justice and Constitutional Development is currently drafting a policy which will regulate the operations within the industry.

The draft policy on appointments of Insolvency Practitioners (IPs), which has been submitted to Minister Jeff Radebe for consideration, aims to advance transformation in line with Black Economic Empowerment (BEE) policies by focusing on black insolvency practitioners, particularly black women.

This draft policy was a result of the consultative process that took place from 2011 to 2013 with key stakeholders as well as the National Economic Development and Labour Council (NEDLAC).

An insolvency practitioner is an individual who has been granted authority to sort out the affairs of an insolvent individual, partnership or company. An IP must be fit and proper to act and should have passed the Joint Insolvency Examination Board's exams (JIEB exams).

Advocate Martin Mafojane, Chief Director in the Office of the Chief Master said the policy will assist in doing away with the current requisition system, which creates an environment prone to abuse and distortion. "The policy will provide a new transparent and uniform system of appointing insolvency practitioners, with measures to prevent fraud and corruption," explained Advocate Mafojane.

Citing reasons for the department's decision to opt for this route, Advocate Mafojane said there is currently a common practice whereby a creditor(s) of the insolvent person/company would approach the Master's office requesting for an interim appointment of a provisional liquidator (trustee) before the first meeting where claims of creditors must be proven. "This practice is being extensively abused because creditors whose claims may not be proved at a later stage, would have influenced the appointment of interim liquidators," he explained.

He further explained: "It means anyone alleging to be owed by an insolvent company/person must submit proof of the debt being owed and outstanding, otherwise it would be difficult to ascertain if indeed those who claim to be creditors have legal claims due to them by the insolvent party."

Advocate Mafojane indicated that although the Master has discretionary powers to appoint interim trustees/liquidators, such discretion does not exist in the appointment of final liquidators where, by law, a Master may add co-liquidator(s).

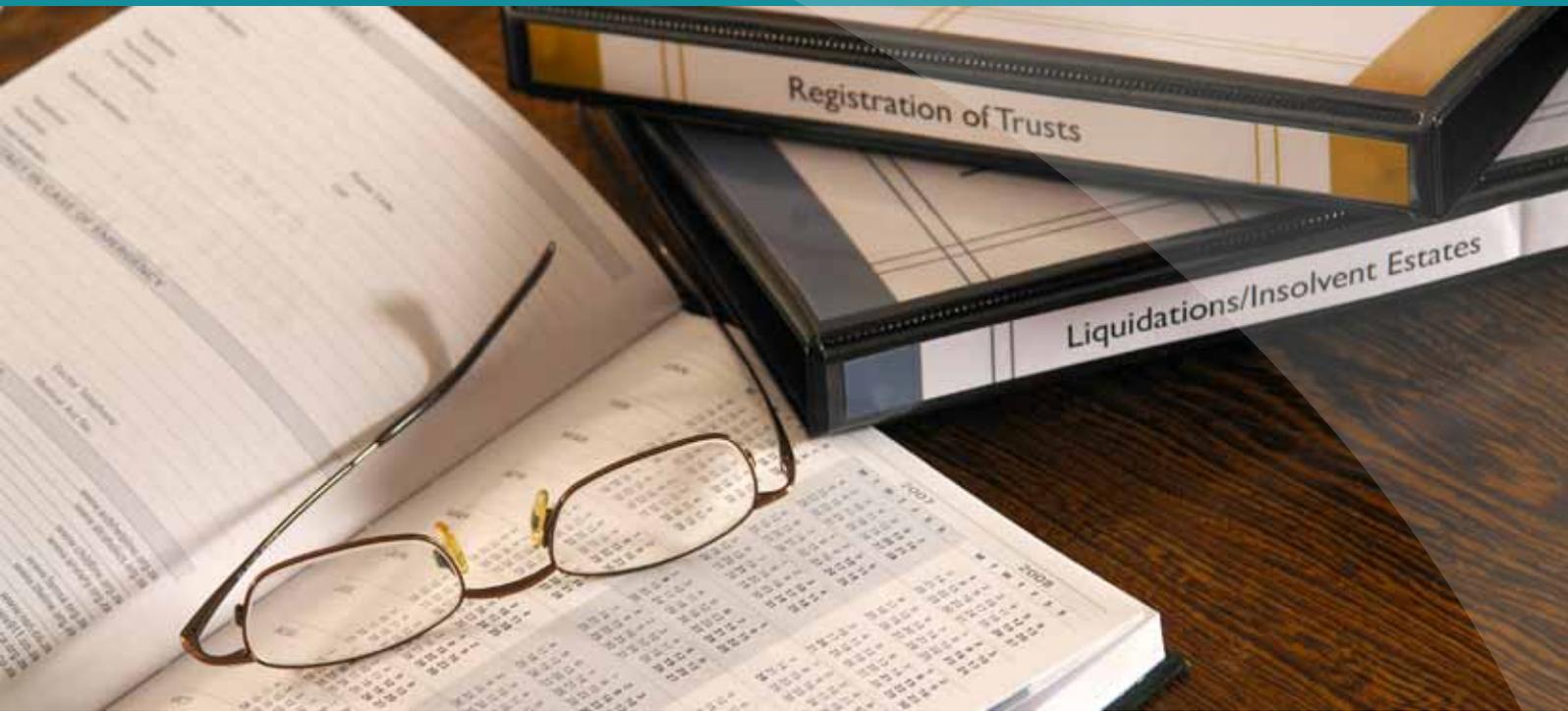
He said that failure to secure court orders timely for internal operations to speed up the appointment has been another major challenge that gave rise to unwarranted complaints.

However, Advocate Mafojane stated that all offices have been achieving a 100% target of issuing letters of appointment of trustees/liquidators which is within the time lines set in the departmental strategy.

"The main challenge is a handful of corrupt liquidators who give the whole industry a bad name. These pry on some of our vulnerable officials," cautioned Advocate Mafojane, adding that these liquidators pay officials to appoint them in instances where they are not supposed to do so. He concluded by giving assurance that disciplinary steps are taken against those officials who favour certain IPs in return for personal gains and disciplinary action leading to dismissals has been the practice lately. 

FACTS ABOUT INSOLVENCY PRACTITIONERS.

Luyanda Makapela



WHAT IS AN INSOLVENCY PRACTITIONER (IP)?

An insolvency practitioner is an individual who is licensed and authorised to manage the affairs of an insolvent individual, partnership or company.

DEFINITION OF INSOLVENCY

When an individual or organisation can no longer meet its financial obligations with its lender or lenders as debts become due. Insolvency can lead to insolvency proceedings, in which legal action will be taken against the insolvent entity, and assets may be liquidated to pay off outstanding debts.

WHAT IS THE FUNCTION OF AN IP?

IPs are appointed to sort out difficult situations where either an individual or a business is insolvent or is likely to become insolvent. Initially, their main task is to attempt to 'rescue' the situation.

WHO CAN CALL ON SERVICES OF AN IP?

An IP may be contacted directly by the directors of a struggling business or an individual who is in debt. IPs also carry out work passed over by government (the Official Receiver).

WHY MUST AN IP BE CONTACTED?

With accountancy skills and knowledge of insolvency law, the IP will draw on a broad range of industry experience to provide the best possible advice. They are regulated and therefore authorised to provide the most appropriate advice for a given situation.

The advice offered by the IPs will not always lead to a formal insolvency procedure. Insolvency professionals look at other practical alternatives. It may be that the costs involved in a formal procedure can be avoided.

DOES AN IP DEAL PURELY WITH INSOLVENT MATTERS?

Insolvency practitioners possess a broad range of debt restructuring knowledge, practical skills and useful contacts. IPs often act as turnaround professionals or 'company doctors' too. They are often best placed to offer advice to individuals and companies where there may be an impending threat of insolvency in the near future. Such advice helps the individual or company implement vital safety measures to avoid a 'worst case' scenario.

WHAT IS REQUIRED TO ACT AS AN INSOLVENCY PRACTITIONER?

If one wants to become a licensed insolvency practitioner, a person must:

- be approved as a fit and proper person by the Insolvency Licensing Committee
- be licensed by one of the Recognised Professional Bodies
- pass the Joint Insolvency Examination Board's (JIEB) exams

Insolvency law is frequently updated for the purposes of improvement, modernisation and to encompass the advancing technology. This is to ensure that IPs are suitably equipped with the necessary practical skills, industry knowledge and legal expertise to tackle the most complex of crises in an ever-evolving economy. 

DO YOU HAVE A WILL

THE IMPORTANCE OF A WILL AND THE PROCESS OF ADMINISTRATION

The Master's Branch serves the public in respect of Deceased Estates, Liquidations (Insolvent Estates), and mentally challenged persons). There are 14 Masters' offices throughout the country (one in each province), although the jurisdiction of these Service Points is limited to deceased estates within their respective provinces.



THE IMPORTANCE OF A WILL

WHAT IS A WILL?

A will is a document in which you set out what must happen to your assets and liabilities – called your estate – when you die.

Why should you have a will?

It allows you to decide who should be the beneficiaries of your estate once you die. In your will, you can also appoint the person who will administer your estate.

WHO CAN MAKE A WILL?

Anyone over the age of 16 can make a will as long as the person is not mentally ill, and understands the consequences of their actions. Two or more people, for example spouses, can make a joint will wherein they dispose of their separate estates.

WHO CAN ASSIST YOU IN DRAFTING A WILL?

You can get assistance from attorneys, banks, chartered accountants, boards of executors, insurance companies, trust companies and various individuals who have the necessary qualifications.

Things to remember

- All wills must be in writing;
- You can sign your will personally or ask some to sign on your behalf and that must be done in the presence of a Commissioner of Oaths (a police officer, postmaster, bank manager or attorney) and
- Beneficiaries or the testator's (the person who made the will) spouse may not be witnesses to the will.

REPORTING A DECEASED ESTATE

WHAT IS A DECEASED ESTATE?

A deceased estate comes into existence when a person dies leaving property or a document which is a will or purports to be a will.

HOW TO REPORT A DECEASED ESTATE?

Within 14 days of a testator's death, all wills, whether they are valid or not, must be reported to the master of the high court in the area where the testator resided.

DOCUMENTS NEEDED

To report a deceased estate, you need to submit the following documents;

- Original or a certified copy of the death certificate;
- Original or certified copy of the marriage certificate;
- Original will;
- Completed death notice;
- Completed next-of-kin affidavit;
- Completed inventory showing all the assets of the deceased;
- Nominations by all the beneficiaries for the appointment of an executor and a certified copy of the executor's ID
- Declaration of existing marriage
- List of creditors



WHAT HAPPENS NEXT?

Once the deceased estate's death has been reported, it takes no more than 15 days to get an appointment with the Master or representative of the Master's office.

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WILL?

ADMINISTERING A DECEASED ESTATE AND GUARDIAN FUND.

Registration of Trusts, Tutors and Curators, as well as Administration of the Guardian's Fund (minors centre where there is a High Court) and all Magistrates offices have been designated as service worth R50 000 or less.



- Creditors and untraced beneficiaries do not receive interest (only minors and State patients/mentally disabled are entitled to interest).
- From time to time, Guardian's Fund invests money to the Public Investment Commissioners (PIC). The interest generated from this investment will be paid to beneficiaries.
- Application by guardians to invest funds outside Guardian's Fund in a specific way will be considered if it is going to benefit the minor. This includes the investment of funds in immovable property.
- Money which remained unclaimed in the Guardian Fund for a period of 30 years as from the date, upon which the person became entitled to claim the money, is forfeited to the state.
- The master administers all the funds in the guardian's fund free of charge and no administration cost paid by account holders (beneficiaries).

WHAT HAPPENS WHEN YOU DIE WITHOUT A WILL?

If you die without a will, your estate will devolve in terms of the rules of intestate succession (your assets will, contrary to general belief, not go to the state). The rules will take into consideration many factors like whether the deceased was married in communion of property, how many children he/she had, or whether they have any surviving relatives.

PROCEDURE OF CLAIMING FROM THE GUARDIAN'S FUNDS

MINORS AND STATE PATIENTS (MENTALLY DISABLED)

Money in the Guardian's Fund can be claimed by the Guardian/tutor/curator/person caring for the minor until the minor reaches the age of maturity (or the age as determined in the will, if any).

As a guardian, you may claim monies for the needs of the minor child (under the age of 18 or disabled persons), with proof of the expenditure. This amount may not be more than R 100 000, until the minor is 18 years old or at the age stipulated in the will. Once the minor is of the right age, the monies left in the Guardian's Fund may be claimed by him or her.



GUARDIANS FUND [Administering funds for children and state patients (mentally disabled)]

PURPOSE OF A GUARDIANS FUND

The purpose of the Guardians Fund is to protect the funds of minors; persons lacking legal competence and capacity, known or unknown, absent and untraceable heirs, out of deceased estates and future maintenance.

FUNCTIONS OF A GUARDIANS FUND

- The Guardian's Fund administers money that has been received lawfully from sources such as National Treasury, Attorney Firms and Bank institutions. Cards are opened on the system for each and every beneficiary so that beneficiaries and guardians can claim the money without any hindrance.
- Guardian's Fund is the custodian of funds, ensuring that qualifying beneficiaries receive what is due to them with the interest generated.





Steering change: Ms Varsha Sewlal, Master of High Court: Durban (seated), Ms Phumelele Shamase, Deputy Master (standing from left), Ms Edith Ngidi, Officer Manager and Deputy Master, Mr Willi Ollewagen.

DURBAN MASTER'S OFFICE COMMITS TO SERVICE EXCELLENCE.

Benson Ntlatleng

Master of the High Court: Durban is a small office situated on the second floor at number 2 Devonshire Place in the city centre. It has a staff complement of 76 which continues to offer best services to neighbouring communities in spite of the various challenges encountered.

The office deals mainly with insolvencies, trusts, curatorship, deceased estates as well as the verification of fingerprints for Guardian's Fund. An estate is the total amount of everything a person owns in life. When a person dies, his or her estate is dealt with according to the person's will or, if there is no will, by the law relating to the distribution of estates.

"Despite challenges that we have, our turnaround time is amazing. Out of 1232 letters of appointment issued on deceased estates after receipt of all relevant documentation in August this year, 1181 were issued within 15 days," explained the Master of the High Court: Durban, Ms Varsha Sewlal, adding that this has brought the office to 96% which exceeds the annual target of 90%.

"We have to visit the service points on a regular basis to check files and to supervise the work that they do. We also have to make sure that letter of appointments are signed by relevant people."

In accelerating service delivery to clients and ensuring greater access to services, the office has established 32 service points in various magistrates' courts within its jurisdiction. "We have to visit the service points on a regular basis to check files and to supervise the work that they do. We also have to make sure that letter of appointments are signed by relevant people," said Deputy Master, Ms Phumelele Shamase.

She added that service points can only handle an estate of up to R50 000. An estate exceeding this amount has to be referred to the Master's office. Ms Shamase indicated that the office often experiences delays emanating from massive correspondence from executors, heirs, family members, creditors of the deceased or any other interested party that they deal with. "We do our best despite capacity challenges we have," she explained.

As a measure of maintaining relations with clients and sustaining service excellence, the office has established relations with local organisation ProBono Attorneys. "They visit our premises once a week and

- **EXECUTOR:** A person appointed by the Master to administer a deceased estate. An executor has a number of duties which must be executed under supervision of the Office of the Master.
- **HEIR:** Is a beneficiary in terms of the Will of the deceased or in terms of the provisions of the Intestate Succession Act no 81 of 1987 (as amended) where a deceased did not leave a Will.
- **CURATORSHIP:** A Master or a court may appoint a curator in respect of the estate of a person not capable of managing his or her own affairs e.g. minors, mental patients and absent persons.
- **INSOLVENCIES:** The Master will appoint a trustee to administer assets of a person who has been declared insolvent. Various meetings must be conducted by the trustee and the Master ensures that assets of the insolvent estate are administered in the best interests of creditors.
- **TRUST:** Ownership of assets can be managed by way of a trust instrument. A trustee will administer assets placed under his or her control. The Master appoints a trustee and a Trust Deed is filed with the Master's office.
- **JURISDICTION:** Each office of the Master has a specific area of jurisdiction. An estate of a deceased must be reported to the office where a deceased ordinarily resides.
- **PROBONO:** ProBono.Org is a Non-Profit Organization which provides free legal assistance to underprivileged citizens via a panel of attorneys. The Master of the High Court: Durban runs a weekly ProBono Helpdesk at the office whereby valuable legal assistance is provided to clients free of charge.

represent clients if the value of estate is less than R125 000 00," mentioned Mr Willi Ollewagen, another Deputy Master at the Durban office. He added that they have engaged the services of the South African Human Rights Commission through a help desk every second week to offer advice to clients and staff.

To test the level of service excellence rendered by the office, Mr Sagar Pillay of Chatsworth who visited the office on that day said: "This is one of the best service points compared to other offices that I've been to. Estate control is done within the time limit and they have the best accounts department in the country where advice can be easily obtained." 



SA STRIVES FOR INTERNATIONAL STANDARDS IN INSOLVENCY PRACTICES.

Nthabiseng Ngwetsana

It is important for Insolvency Practitioners to be regulated and conform to international standards. In meeting these standards and for benchmarking purposes, the Department of Justice and Constitutional Development is affiliated with INSOL International, also known as an International Association of Restructuring, Insolvency and Bankruptcy Professionals.

INSOL International is a world-wide federation of national associations for accountants and lawyers who specialise in turnaround and insolvency practices. South African is one of the 44 member associations, the advantage of being part of the association is that the department gets to interact, share ideas and best practices with other developed countries.

This body facilitates the exchange of information and ideas, it inspires international co-operation and communication amongst the member states, insolvency profession and credit community. It encourages participation of government advisory groups so that governments engage on cross-border insolvency issues.

According to Advocate Martin Mafojane, Chief Director in the Office of the Chief Master, the biggest challenge faced by insolvency bodies is corruption. He stressed this is one of the issues that the department needs international assistance to combat.

“When a company or an individual is being liquidated, it means that their assets are far less than their liabilities. The liquidation process should benefit the creditors, but some hide their assets so that they get out without much damage and in some cases liquidators extort monies in the process. Such operations impact negatively on our work,” expressed Advocate Mafojane.

INSOL is a sub-body of the World Bank. “This is one of the advantages of the affiliation especially when there is a recession, we get to know about it timely, and come up with contingency methods so as to curb the spiraling effect on businesses,” he added.

In the light of the current economic crisis that many countries are facing, and with the fast growing number of cross-border

insolvency cases, the INSOL, along with the World Bank, established the Africa Round Table to provide a platform for high level dialogue on insolvency reform in Africa.

However, Advocate Mafojane indicated that there is a downside to inter-country relations. He said often company owners acquire loans from other countries, whilst they know that the business faces possible liquidation and ultimately, such loans are not paid back.

“This is one of the advantages of the affiliation, especially when there is a recession, we get to know about it timely, and come up with contingency methods so as to curb the spiraling effect on businesses.”

In strengthening relations and sharing information, Lesotho recently came to South Africa to learn about the methods and best practices on issues around Masters’ services.

In September, the department participated in a three-day conference of the International Association of Insolvency Regulators (IAIR) held in Edinburgh, Scotland. Advocate Mafojane said the department intends to bench-mark technological methods that are used world-wide.

“We want to modernise the way we administer trusts and insolvencies using world class technology and the conference is a major platform where we can learn about new trends,” he said. IAIR is another body that the department is affiliated to, that brings together the collective experiences and expertise of government insolvency regulators from around the world.

Members of the IAIR are national insolvency representatives from government departments, ministries, agencies and public authorities who have a responsibility in Insolvency Practice and Administration in their countries. [\[1\]](#)



66 MARSHALL

66

Service entry point: Members of the public are seen entering the Master of the South Gauteng High Court for assistance.

PAPERLESS SYSTEM - A RELIEF FOR SOUTH GAUTENG MASTER'S OFFICE.

Mokgethwa Ngoepe

Gone are the days when officials working at the Master of the South Gauteng High Court would manually assist clients reporting the deceased estates. This office is now exploring the new Paperless Estates Administration System (PEAS) to report all the deceased estates for electronic filing.

According to the Deputy Master, Ms Penelope Roberts, the system requires all details of the deceased which are then captured electronically by an estate controller. "The system can now populate reporting documents like a death notice, where previously, these documents were manually completed and submitted at the Master's office," she explained, adding that the PEAS minimises the risk of files being lost or misplaced.

The new system has a huge impact on service delivery, as clients will no longer be turned away due to lost or misplaced files. "The other advantage of using the electronic system is that all duties relating to the reporting and capturing of a deceased estate are separated. This minimises fraudulent activities as one official cannot capture and register a deceased estate," said Ms Roberts.

The objective of the system is that in future, it will also allow members of the public to register any deceased estate online. This process will enable the Master to scrutinise the information captured and consider approving the appointment letter online.

"This will also give an opportunity for members of the public not to physically visit the Master's office

to report a deceased estate, instead they would report their deceased estate through an e-filing system," explained Ms Roberts, adding that the system enables letters of appointment to be issued on the same day.

However, Mr Deon van Schalkwyk from the Office of the Chief Master said there is a challenge whereby most institutions still require an original appointment letter with the signature and date stamp from the office. "The law requires that all original wills must be submitted to the Master for registration and acceptance. The lodging of original wills may also have an impact on the e-filing process as the Master will not be in a position to issue the appointment letter until such time as the original Will is submitted," explained Mr van Schalkwyk.

"The system can now populate reporting documents like a death notice, where previously, these documents were manually completed and submitted at the Master's office."

The roll out of PEAS currently covers the front office where the process of issuing letters of appointment takes place, and the back office which is responsible for the examination of the Liquidation and Distribution Account. "We encourage the public to make use of our services as we deliver them free of charge," concluded Mr van Schalkwyk. 



Ms Penelope Roberts, the Deputy Master at the Master of the South Gauteng High Court is passionate about the new system.



A NEW SYSTEM FOR ADMINISTRATION OF TRUST REDUCES TURN-AROUND TIME.

Benson Ntlatleng

For ease of administration of trusts, the Office of the Chief Master has introduced Paperless Estate Administration System for Trusts (PEAST). The primary objective of the system is to move towards paperless trust registration and administration for speedy and cost effective service within the Master's environment.

The long term goal is to enable the public and applicant bodies to apply for trust registration online through the Department of Justice and Constitutional Development's e-Justice system. The design for the new system has already started.

Explaining the new system, Mr Floorie Botes, the project manager based in the Master of the North Gauteng High Court in Pretoria, said the new forms are available electronically and can be completed and saved as drafts for applicants (companies or bodies), and as electronic copies for end-users.

"For the first phase, these forms can be printed out or filled manually before they are submitted to the Master's office for registration or amendments. During registration, the application and supporting documents with the Letter of Authority (LOA) are scanned into the system so that copies are available electronically and for future queries," Mr Botes said.

According to Mr Botes, the system drastically cuts down on the current delay of around five (5) days to get the enquired file from the storage to give the applicant the requested copies or information almost instantly. "The system is also work-flow based, which ensures that consistent data is captured nationwide and the process cannot be bypassed, resulting in less corruption," he said, adding that the electronic diary replaces the keeping of manual diaries, with notifications.

The beauty of the system, Mr Botes further explained, is that applicants are constantly kept updated regarding the status of their

"It's quicker, cost effective, transparent, secure, easier to administer and will enable the Office of the Chief Master to provide a more efficient service to the public."

applications. "They can also receive e-mail updates on the progress and outcome of applications and all letters are system-generated to cut down on typing time and ensure conformity for communication to the public."

Functions relating to Master's actions are segregated, so each role will check for conformity by the applicant resulting in fewer mistakes. "There is an electronic audit trail in respect of all actions performed on the system for each trust," said Mr Botes.

Mr Daniel Krige, Deputy Master, also in the Pretoria branch, emphasised the importance of the system in the administration of trusts. "It's quicker, cost effective, transparent, secure, easier to administer and will enable the Office of the Chief Master to provide a more efficient service to the public," said Mr Krige.

With regards to the turn-around time, he indicated that the system enables a medium-sized Master's office, like Pietermaritzburg, to issue LOAs within three (3) hours on average for the registration of new trust, whereas bigger offices like Pretoria manages to issue LOAs within three (3) days on average.

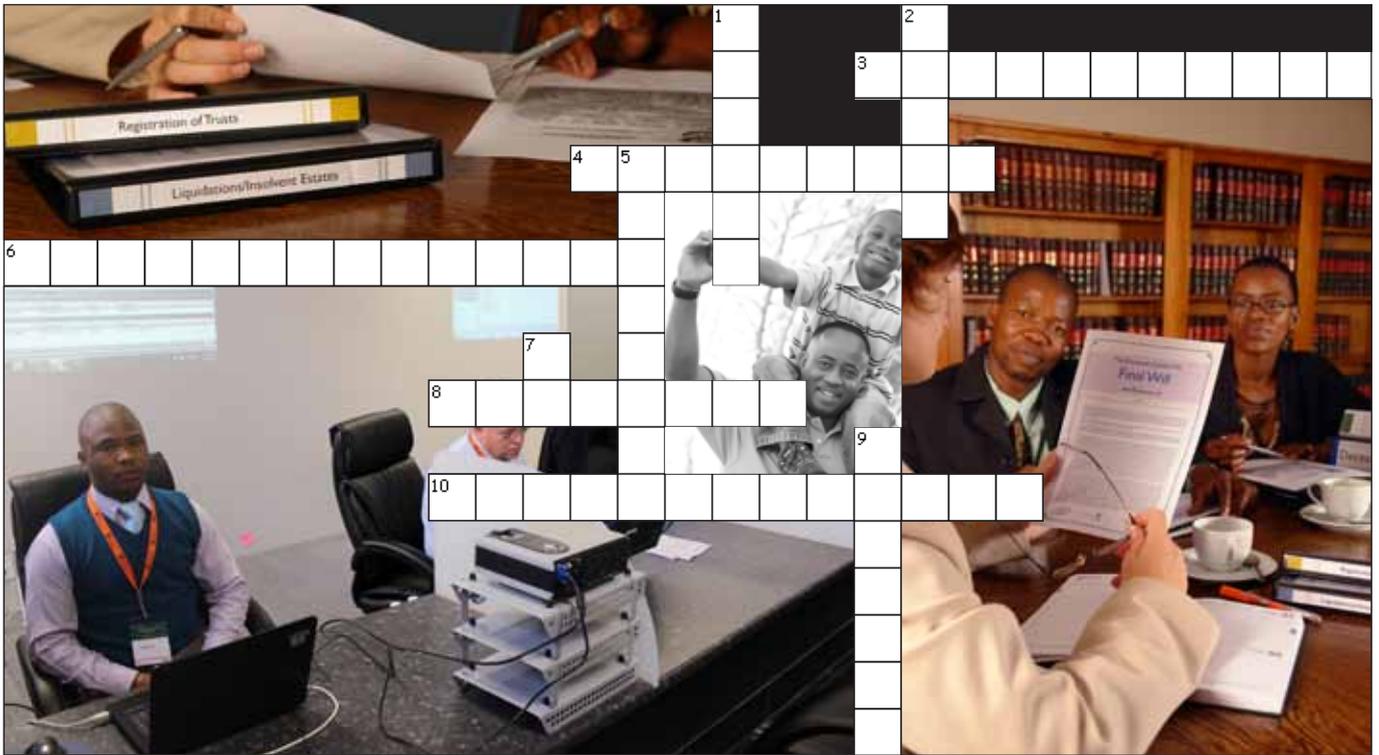
Mr Krige indicated that this is still way within the 14 days target set by the department for turn-around time. He pointed out the advantages of the system is that when files are missing, information is not lost and can be reprinted or copies can still be provided.

"Initially, information provided differed from one office to the other and there was no consistency, so the new system ensures detailed and sufficient information that is consistent from all offices nationwide," said Mr Krige.

With the new system the South African Revenue Services (SARS) will be able to retrieve the beneficiary and trustee's details captured. Ms Mahalia Molefe, also from the Pretoria branch, mentioned that trust investigations would be much quicker and easier as the information is available electronically, auditors and accountants would have to specify their associated bodies in case action needs to be taken, which results in better accountability and traceability of relevant parties or stakeholders. 

CROSSWORD Puzzle

The Justice Today **CROSSWORD PUZZLE** has clues whose solutions can be found by carefully reading all the articles in this issue. Fill in the answers correctly and stand a chance to **WIN**.



CROSSWORD PUZZLE QUESTIONS

ACROSS

3. Which office looks after the interests of vulnerable groups, including minor children?
4. In which month did the Department of Justice and Constitutional Development participate in a three-day conference of the international association of insolvency Regulators (IAIR) held in Edinburgh, Scotland?
6. When a person dies leaving property or a document which is a will or purports to be a will ... comes into existence.
8. Which Master's office is the fifth office to use PEAS?
10. SA strives for standards in insolvency practitioners.

DOWN

1. Who has discretionary powers to appoint interim trustees/ liquidators?
2. PEAS has been decentralised to how many magistrate's courts in Mpumalanga?
5. Name a person appointed by the master to administer the deceased estate.
7. Who is the individual granted authority to sort out the affairs of an insolvent individual, partnership or company? (Abbreviation)
9. Ms Elsie Maoko comes from which village?

HOW TO ENTER & WIN

Complete the Crossword Puzzle and **STAND A CHANCE TO WIN A PRIZE**. Fill in your details on the entry form and fax to 086 226 0222, attention Nthabiseng Ngwetsana. The first 3 correct entries drawn will **WIN** a prize.

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Terms & Conditions: If you have won a prize, you are advised not to enter any other competitions run in Justice Today for a period of 12 months to afford other employees an opportunity to win.

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