



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Chief Masters Directive 2 of 2009

1. Purpose

The purpose of the directive is to ensure a uniform approach by Masters in respect of the matters listed below.

2. Motivation / Background

A number of role players have approached my Office for clarity on certain matters. As part of my statutory obligations I have decided to provide the following guidelines to ensure a uniform approach by Masters to the matters raised.

All previous Master's Directives on points addressed by this Chief Master's Directive are revoked.

3. The following has been decided:

3.1) Access to information on Trusts

The question has been raised with regards to what information/copies on Trusts may be provided to applicants, without the consent of the Trustees / beneficiaries.

It was indicated that some offices provide any information requested, whilst others first request the permission of the Trustees / Beneficiaries.

In the light of

- a) Section 18 of the Trust Property Control Act 57 of 1988 provides:
Subject to the provisions of Section 5(2) of the Administration of Estates Act, 1965(Act 66 of 1965), regarding the documents in connection with the estate of a deceased person, the Master shall upon written request and payment of the prescribed fee furnish a certified copy of any document_under his control relating to trust property to a trustee, his surety or his representative or any other person_who in the opinion of the Master has sufficient interest in such document." As well as
- b) the Access to Information Act 2 of 2000 (PAIA) and

c) Promotion of Administrative Justice Act 3 of 2000 (PAJA)

The following procedures must apply when a request for access to information on a registered trust is received:

- 3.1.1) all applications must be in writing and provide reasons as to why the information is needed.
- 3.1.2) A “trustee, his surety or his representative” has automatic access to any information/documents in the file.
- 3.1.3) On the application of any other person, the Master must exercise his discretion, weighing up the interest of the parties involved, in deciding whether or not the information may be provided. This must include consulting with the trustees, founder etc of the Trust (section 3(2) of PAJA).
- 3.1.4) Should the Master refuse to provide the information requested, he must hand back the application to the applicant and refer him to the Information Officer of DoJ & CD.

4) **Effective date**

This Directive will come into effect as from date of signature thereof.

K Mbeki
Acting Chief Master

DATE: _____