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REPUBLIC OF SOUTH AFRICA

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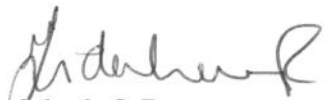
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CIRCULAR ~~027~~ OF 2014
(HEAD OFFICE FILE 9/1/9/1)

**CHIEF MASTERS DIRECTIVE 3 OF 2014 – MONITORING OF THE
IMPLIMENTATION OF THE POLICY ON THE APPOINTMENT OF INSOLVENCY
PRACTITIONERS**

1. Your attention is drawn to the contents of the attached Directive with regards to MONITORING OF THE IMPLIMENTATION OF THE POLICY ON THE APPOINTMENT OF INSOLVENCY PRACTITIONERS
2. This Directive is effective from **31 March 2014** and should be implemented as such.
3. Any enquiries should be addressed in writing to the Office of the Chief Master or per e-mail to chiefmaster@justice.gov.za

PP  7/3/2014
Adv. L G Basson
Chief Master (Acting)

TO ALL OFFICES IN THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT



CHIEF MASTER'S DIRECTIVE 3 OF 2014

MONITORING OF THE IMPLEMENTATION OF THE POLICY ON THE APPOINTMENT OF INSOLVENCY PRACTITIONERS

1. PURPOSE OF THIS DIRECTIVE

- 1.1 The Minister of Justice and Constitutional Development determined Policy for the appointment of Insolvency Practitioners, published in Government Gazette No 37287 dated 7 February 2014.

Paragraph 5 of the Policy provides that the Chief Master must issue Directives to be used by all Masters in order to implement and monitor the application of this Policy.

- 1.2 Section 2(1)(b)(iii) of the Administration of Estates Act, 66 of 1965 provides that the Chief Master must exercise control, direction and supervision over all the Masters. The purpose of this Directive is to regulate the establishment of monitoring committees in the respective Master's Offices to ensure the implementation and monitoring of the Policy in a consistent and transparent manner.

2. SCOPE AND APPLICATION OF THE DIRECTIVE IN RELATION TO THE POLICY

This directive deals with the establishment of a Monitoring Committee in the Office of the Chief Master and the functions of such a committee as provided for in paragraph 5 of the Policy on the Appointment of Insolvency Practitioners.

3. ESTABLISHMENT AND COMPOSITION OF MONITORING COMMITTEE

- 3.1 The Office of the Chief Master must establish an Insolvency Appointments Monitoring Committee.

- 3.2 The committee should consist of:
- (a) At least one representative from one of the following:
 - i. Association for Black Business Rescue and Insolvency Practitioners of South Africa (ABRIPSA)
 - ii. South African Restructuring and Insolvency Practitioners (SARIPA)
 - iii. The relevant Law Society.
 - iv. South African Institute of Chartered Accountants (SAICA)
 - (b) A nominated Head of Office;
 - (c) Two officials from the Master's Office designated by the Head of Office;
 - (d) A representative nominated by the social partners of NEDLAC or Insurance Industry;
- 3.3 The representative mentioned under 3.2(b) above shall be the chairperson.

4. SECRETARIAT OF THE MONITORING COMMITTEE

Two Officials within the Master's Branch will be nominated by the Office of the Chief Master to serve as the secretariat for the monitoring committee, to assist with the following:

- i. The transmission of information or complaints to the chairperson and committee members;
- ii. The facilitation and organizing of meetings of the committee; and
- iii. The preparation of minutes of the meetings and reports on findings and recommendations of the committee.

5. QUORUM AND CONDUCTING OF MEETINGS OF THE MONITORING COMMITTEE

- 5.1 The quorum is constituted by at least 3 of the nominated committee members (excluding the secretariat)
- 5.2 The meetings of the monitoring committee should preferably be conducted by way of telephone conferencing.

6. POWERS OF MONITORING COMMITTEES

- 6.1 The monitoring committee (the committee) will monitor the appointment processes followed in the respective Masters' Offices, to ensure that same is in compliance with the Policy on the Appointment of Insolvency Practitioners.
- 6.2 The committee will monitor the making of discretionary appointments and the implementation of the Policy.
- 6.3 The committee will investigate complaints regarding appointments made.
- 464 The committee will report their findings to the Chief Master or an official designated by the Chief Master, to deal with as deem fit

7. PROCEDURE OF COMMITTEES

- 7.1 The chairperson of the committee must convene a meeting of the committee –
 - (a) When information on appointments and complaints received justifies a meeting; or
 - (b) When a member of the committee requests a meeting,
- 7.2 Notwithstanding 7.1 above, a meeting must be held at least once every three months.
- 7.3 Where a finding has been made on a complaint investigated by the committee or the committee finds that the Policy is not being applied uniformly, the committee must submit a report with its findings and recommendations to the Chief Master or a person designated for that purpose by the Chief Master. If unanimity cannot be reached on any matter, members of the committee are entitled to include their dissenting views in the report.
- 7.4 The Chief Master must, within a month after the receipt of the report, indicate in a response to the committee the steps contemplated by the Chief Master with time frames, or steps taken by the Chief Master.
- 7.5 A record must be kept of all minutes of meetings and reports by the committee.

8. MASTERS MUST KEEP RECORDS OF DISCRETIONARY APPOINTMENTS


- 8.1 When discretionary appointments are made, the panel or persons responsible for the making of appointments in the respective Masters' Offices, must record the reason for each such discretionary appointment.

- 8.2 To assist the monitoring committee in their monitoring functions, the chairperson of the committee may request the relevant Head of Office to provide the information in 8.1 above with regards to a specific matter before the committee.

9 EFFECTIVE DATE

This Directive will come into effect 31 March 2014.

Signed on 7 March 2014


pp **Adv L G Basson** (T. Bezuidenhout - Acting)

Chief Master of the High Courts of South Africa