

**Statutory Instrument No. 38 of 1967**

**ADMINISTRATION OF ESTATES PROCLAMATION (CHAPTER 83)**

**THE ADMINISTRATION OF ESTATE (REMUNERATION OF EXECUTORS, CURATORS AND TUTORS) REGULATIONS, 1967**

(Published on 28th July, 1967)

In exercise of the powers vested in him by section 118 of the Administration of Estates Proclamation (Chapter 83) His Excellency the President hereby makes the following regulations —

**Title**

1. These regulations may be cited as the Administration of Estates (Remuneration of the Executors, Curators and Tutors) Regulations, 1967.

**Authorised Remuneration**

2. The remuneration of Executors, Curators and Tutors shall be assessed and taxed by the Master according to the following tariff:

Provided that the Master may, in his discretion, authorise a variation from this tariff in special cases if he sees fit:

(a) *Movables*

On the net proceeds of tangible movables sold (furniture, livestock, jewellery, vehicles etc.) ..... 5%

Awarded to beneficiaries or administrator, or taken over by surviving spouse..... 2½%

On bare *dominium* value of movables subject to a still-existing usufruct..... 2½%

On the balance of the purchase price collected of movables sold by deceased under hire-purchase ..... 5%

On such balance awarded to heirs..... 2½%

(b) *Mortgage Bonds*

Realized or repaid..... 2½%

Taken over or ceded to beneficiaries or administrator..... 1¼%

(c) *Landed Property*

On net proceeds of sale..... 2½%

On purchase price of property sold in lifetime of deceased but still to be transferred to purchaser..... 1¼%

together with —

On portion of purchase price still to be paid by purchaser..... ¼%

Taken over, specially bequeathed or transferred to heirs..... 1¼%

On bare *dominium* value of landed property subject to a usufruct ..... 2½%

On landed property to remain in estate in terms of will until some future date. . . . .  
 1¼%  
 together with —  
 When sold or transferred to beneficiaries. . . . . ¾%  
 On balance of purchase price still to be collected if sold by deceased on hire-  
 purchase . . . . . 2½%  
 together with —  
 1% on amount paid before death  
 Taken over by surviving spouse under section 51 of the Proclamation. . . . . 1¼%

(e) *Shares and Securities*

(These include Government Stock, Savings Certificates and permanent and contribu-  
 tory shares in building societies and similar institutions).

Realized. . . . . 2½%  
 Taken over or ceded to beneficiaries. 1¼%

(f) *Insurance Policies*

Proceeds of Insurance Policies. . . . . 2½%  
 (Where there is a loan or premiums due to the insurer and these are deducted from  
 the proceeds, only 1% is allowed on the portion of the proceeds withheld).  
 Surrender value of policies, and present-day (i.e. discounted) value of future in-  
 stalments and ultimate capital payment of income policies, taken over or awarded  
 to beneficiaries. . . . . 1¼%  
 If actually surrendered or discounted . . . . . 2½%

(g) *Claims in Favour of Estate*

Promissory notes and bills of exchange collected. . . . . 5%  
 Book debts collected (other than mortgage bonds). . . . . 5%  
 Rents, interest, salaries, etc. . . . . 5%  
 If any of the above items are not collected, but are taken over or awarded to bene-  
 ficiaries or an administrator. . . . . 2½%  
 Cheques. . . . . 1%  
 Amount of debts due by legatees or heirs set off against legacy or inheritance. .  
 1%  
 Debt due by executor. . . . . 1%  
 Amount awarded to deceased from other estates (including proceeds of foreign  
 estate remitted to Botswana)  
 (a) If executor of deceased's estate is not same person as executor in other  
 estate. . . . . 2½%  
 (b) If executor is same person as executor in other estate. . . . . 1%

On bare *dominium* value of amount awarded from other estates but subject to usufruct of some person..... 2½%

Moneys with townships, agents, sharebrokers..... 1%

(h) *Goodwill*

On value of goodwill..... 1%

(If business is sold as going concern and no distinction is made as to goodwill the rate of commission will depend upon the nature of the assets sold e.g. movables 5% immovables 2½%

(i) *Partnership*

If the assets of the partnership are separately shown and separately dealt with, the rate of remuneration will be according to the nature of the asset and according to whether it is sold or awarded to the beneficiaries, as set out above.

If the partnership agreement provides for the payment for deceased's interest, on the amount payable..... 2½%

If deceased's interest is sold as a whole ..... 2½%

(j) *Sundry Rights*

Mineral rights sold..... 2½%

Mineral rights taken over or awarded to beneficiaries..... 1¼%

Option and prospecting contract moneys collected..... 5%

Awarded to beneficiaries or administrator..... 1¼%

Stock exchange rights sold..... 2½%

Awarded to beneficiaries or administrator..... 1¼%

Liquor licence sold..... 2½%

Awarded to beneficiaries or administrator..... 1¼%

(k) *Fiduciary and usufructuary Property*

Where the deceased was the fiduciary or usufructuary in respect of any property which must be dealt with in the estate duty affidavit the Master will usually allow the executor some remuneration which is charged against the property concerned. The executor should consult the Master as to the fee he will allow.

Where there has been intermingling of such property with the deceased's so that it cannot be identified and the successors have only personal claims for its value, the executor is entitled to the normal commission on all the assets found in the estate.

(l) *Nominal Fee in Small Estates*

The Master will normally allow the following in small estate where he consider this tariff is inadequate:

Estate up to R100 .....	R6.30
Estate up to R200 .....	R8.40
Estate up to R400 .....	R12.60

Estate up to R600 .....	R14.00
Estate up to R800 .....	R21.00
Estate up to R1000 .....	R28.00

**Revocation**

3. High Commissioner's Notice No. 125 of 1933 (as published on page 1121 of the Revised Edition of the Laws) is hereby revoked.

A. MOGWE,  
for Secretary to the Cabinet.

Cabinet Office,  
GABERONES.  
7th July, 1967