

The importance of Section 42 of the Administration of Estates Act 66 of 1965

The duly appointed Executor of a deceased estate is tasked with ensuring compliance with Section 42 of the Administration of Estates Act 66 of 1965 ("the Act"), when dealing with immovable property which forms part of the deceased estate.

- In terms of Section 42(1) of the Act where immovable property is transferred to the heirs, the Conveyancer attending to the transaction must lodge with the Registrar of Deeds a conveyancer's certificate confirming that the intended transfer is in accordance with the final liquidation and distribution account as accepted by the Master of the High Court. The conveyancer certificate furthermore confirms that no objections were lodged against the liquidation and distribution account with the Master of the High Court.
- In terms of Section 42(2) of the Act, should the heirs of the deceased estate elect to sell the immovable property out of the deceased estate to a third party, the Master of the High Court must consent (by endorsing the Power of Attorney to pass transfer) and approve the sale of the property. The consent must be lodged with the Registrar of Deeds.

Section 42 of the Act aims to ensure that the transfer of immovable property forming part of a deceased estate is duly authorised and carried out in accordance with the applicable legal requirements. The required approvals must be obtained prior to the transfer and registration of immovable property. For heirs and purchasers, understanding these legal requirements can assist in managing one's expectations when dealing with immovable property in a deceased estate.

Name: Charne Goosen
Position: Director
Department: Conveyancing
Tel: 031 536 7572
Email:
cgoosen@livingston.co.za



Name: Chelsea Jeremiah
Position: Candidate Attorney
Department: Litigation
Tel: 031 536 7523
Email:
chelsea@livingston.co.za



The content of this document is intended only to provide a summary and general overview on matters of interest. It is not intended to be comprehensive nor does it constitute legal or other professional advice. You should seek legal or other professional advice before acting or relying on any of the content.