



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1478.

18 Julie 1984

No. 1478.

18 July 1984

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 84 van 1984: Insolvensiewysigingswet, 1984.

No. 84 of 1984: Insolvency Amendment Act, 1984.

Wet No. 84, 1984

INSOLVENSIEWYSIGINGSWET, 1984

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Insolvensiewet, 1936, ten einde voorsiening te maak dat die bevoordeeldes onder sekere vervreemdings van goed sonder teenwaarde met die skuldeisers van insolvente boedels kan konkurreer; en 'n foutiewe verwysing reg te stel; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 28 Junie 1984.)*

DAAR WORD BEPAAL deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van
artikel 26 van
Wet 24 van 1936.

1. Artikel 26 van die Insolvensiewet, 1936 (hieronder die Hoofwet genoem), word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) 'n Vervreemding van goed sonder teenwaarde wat kragtens **[hierdie artikel]** subartikel (1) tot niet gemaak is of wat nie deur die insolvent volvoer is nie, gee aan die bevoordeelde nie die reg om met die skuldeisers van die insolvent se boedel te konkurreer nie: Met dien verstande dat in die geval van 'n vervreemding van goed sonder teenwaarde wat nie deur die insolvent volvoer is nie, en wat—

(a) by wyse van borgstelling, waarborg of skadeloosstelling gedoen is; en

(b) nie kragtens subartikel (1) tot niet gemaak is nie, die betrokke bevoordeelde met die skuldeisers van die insolvent se boedel kan konkurreer vir 'n bedrag wat nie meer is nie as die bedrag waarmee die waarde van die bate van die insolvent onmiddellik voor daardie vervreemding sy skulde te bowe gegaan het.”

Wysiging van
artikel 97 van
Wet 24 van 1936.

2. Artikel 97 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (2) deur die volgende paragraaf te vervang:

“(c) die volgende onkoste wat gelykop gerangskik en, indien nodig, eweredig gekort word, naamlik: die getakseerde sekwestrasiekoste (soos omskrewe in subartikel (3)), die fooi in **[subartikel (4) van artikel 16]** artikel 16 (5) bedoel, die vergoeding van die *curator bonis* en van die kurator en alle ander koste van beheer en likwidasië, met inbegrip van die koste van die sekuriteit deur die kurator gestel vir sy behoorlike bereddering van die boedel, vir sover as wat die Meester daardie koste redelik ag en hulle nie deur 'n bepaalde skuldeiser volgens artikel 89 (1) gedra moet word nie, alle onkoste wat die Meester of 'n voorsittende amptenaar kragtens artikel 153 (2) gemaak het en die salaris of loon van iemand wat die *curator bonis* of die kurator in diens geneem het in verband met die bereddering van die insolvente boedel.”

Kort titel.

3. Hierdie Wet heet die Insolvensiewysigingswet, 1984.

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GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Insolvency Act, 1936, so as to make provision that the beneficiaries under certain dispositions of property without value may compete with the creditors of insolvent estates; and to rectify an incorrect reference; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 28 June 1984.)*

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 26 of the Insolvency Act, 1936 (hereinafter referred to as the principal Act), is hereby amended by the substitution of subsection (2) of the following subsection: Amendment of section 26 of Act 24 of 1936.

“(2) A disposition of property not made for value, which was set aside under **[this section]**, subsection (1) or which was uncompleted by the insolvent, shall not give rise to any claim in competition with the creditors of the insolvent’s estate: Provided that in the case of a disposition of property not made for value, which was uncompleted by the insolvent, and which—

- (a) was made by way of suretyship, guarantee or indemnity; and
- (b) has not been set aside under subsection (1), the beneficiary concerned may compete with the creditors of the insolvent’s estate for an amount not exceeding the amount by which the value of the insolvent’s assets exceeded his liabilities immediately before the making of that disposition.”

2. Section 97 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (2) of the following paragraph: Amendment of section 97 of Act 24 of 1936.

“(c) the following costs which shall rank *pari passu* and abate in equal proportions if necessary, that is to say: the taxed costs of sequestration (as defined in subsection (3)), the fee mentioned in **[subsection (4) of section sixteen]** section 16 (5), the remuneration of the *curator bonis* and of the trustee and all other costs of administration and liquidation including such costs incurred by the trustee in giving security for his proper administration of the estate as the Master considers reasonable, in so far as they are not payable by a particular creditor in terms of section 89 (1), any expenses incurred by the Master or by a presiding officer in terms of section 153 (2) and the salary or wages of any person who was engaged by the *curator bonis* or the trustee in connection with the administration of the insolvent estate.”

3. This Act shall be called the Insolvency Amendment Act, 1984. Short title.

