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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 445.

23 Maart 1977.

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

No. 27 van 1977: Moratorium-wysigingswet, 1977.

No. 445.

23 March 1977.

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

No. 27 of 1977: Moratorium Amendment Act, 1977.

ACT

To amend the Moratorium Act, 1963, so as to include in the definition of "service" certain service rendered by a citizen allotted in terms of Chapter VIII of the Defence Act, 1957, to the South African Police; and to provide for the suspension of the obligation of a citizen rendering service to pay certain debts which become payable while he is rendering service; and to provide for incidental matters.

(Afrikaans text signed by the State President.)

(Assented to 16 March 1977.)

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

Amendment of section 1 of Act 25 of 1963, as substituted by section 1 of Act 4 of 1969, and amended by section 3 of Act 26 of 1973 and section 10 of Act 1 of 1976.

1. Section 1 of the Moratorium Act, 1963 (hereinafter referred to as the principal Act) is hereby amended by the substitution for the definition of "service" of the following definition:

"'service' means the continuous service in the Citizen Force which is rendered during the periods referred to in section 22 (3), or the continuous service in a commando which is rendered during the periods referred to in section 44 (3) of the Defence Act, 1957, or the continuous service which is rendered in terms of section 34A (10) of the Police Act, 1958 (Act No. 7 of 1958), by a citizen who has been allotted to the Citizen Force, the commandos or the South African Police in terms of Chapter VIII of the Defence Act, 1957, and includes any service on which a citizen allotted to the Citizen Force or the commandos is employed in terms of Chapter X of the latter Act, during the periods of continuous service referred to in sections 22 (3) and 44 (3) of the latter Act, and if such citizen contracts any illness or sustains any injury as a result of such service, he shall be deemed to be rendering service during any period during which he is undergoing treatment in hospital for any such illness or injury if such treatment is commenced during the said periods of continuous service."

Substitution of section 2 of Act 25 of 1963, as amended by section 2 of Act 4 of 1969.

2. The following section is hereby substituted for section 2 of the principal Act:

"Moratorium in certain cases.

2. (1) Save as is provided in subsections (2) and (3) of this section—

- (a) the obligation of a citizen rendering service to pay contractual debts incurred by him which become payable while he is rendering service shall be suspended for a period equal to the period during which he is rendering service plus one month;
- (b) all civil legal remedies whatsoever against such citizen in respect of contractual debts incurred by

WET

Tot wysiging van die Moratoriumwet, 1963, om in die omskrywing van „diens” sekere diens gedoen deur ’n burger wat ingevolge Hoofstuk VIII van die Verdedigingswet, 1957, aan die Suid-Afrikaanse Polisie toegewys is, in te sluit; en voorsiening te maak vir die opskorting van die verpligting van ’n burger wat diens doen om sekere skulde te betaal wat betaalbaar word terwyl hy diens doen; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 16 Maart 1977.)

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

1. Artikel 1 van die Moratoriumwet, 1963 (hieronder die Hoofwet genoem) word hierby gewysig deur die omskrywing van „diens” deur die volgende omskrywing te vervang:

„„diens” die ononderbroke diens in die Burgermag wat gedurende die tydperke in artikel 22 (3), of die ononderbroke diens in ’n kommando wat gedurende die tydperke in artikel 44 (3) van die Verdedigingswet, 1957, bedoel, of die ononderbroke diens wat ingevolge artikel 34A (10) van die Polisiewet, 1958 (Wet No. 7 van 1958), gedoen word deur ’n burger wat ingevolge Hoofstuk VIII van die Verdedigingswet, 1957 aan die Burgermag, die kommando’s of die Suid-Afrikaanse Polisie toegewys is, en ook enige diens waarin ’n burger wat aan die Burgermag of die kommando’s toegewys is ingevolge Hoofstuk X van laasgenoemde Wet gedurende die tydperke van ononderbroke diens in artikels 22 (3) en 44 (3) van laasgenoemde Wet bedoel, in diens gestel word, en indien so ’n burger ’n siekte of besering opdoen as gevolg van sodanige diens, word hy geag diens te doen gedurende ’n tydperk waartydens hy in ’n hospitaal behandeling ondergaan vir daardie siekte of besering indien sodanige behandeling ’n aanvang neem gedurende bedoelde tydperke van ononderbroke diens.”.

Wysiging van artikel 1 van Wet 25 van 1963, soos vervang deur artikel 1 van Wet 4 van 1969, en gewysig deur artikel 3 van Wet 26 van 1973 en artikel 10 van Wet 1 van 1976.

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

„Moratorium in sekere gevalle.

2. (1) Behoudens die bepalings van subartikels (2) en (3) van hierdie artikel, word—

- (a) die verpligting van ’n burger wat diens doen om kontraktuele skulde te betaal wat deur hom aangegaan is en wat betaalbaar word terwyl hy diens doen, opgeskort vir ’n tydperk wat gelykstaar met die tydperk waartydens hy diens doen plus een maand;
- (b) alle siviele regsmiddels hoegenaamd teen sodanige burger, opgeskort ten opsigte van

Vervanging van artikel 2 van Wet 25 van 1963, soos gewysig deur artikel 2 van Wet 4 van 1969.

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such citizen, shall be suspended during the whole period during which such citizen is rendering service.

(2) The provisions—

- (a) of subsection (1) (a) shall not apply in respect of a citizen who receives from his employer while rendering service any salary or wages which together with the salary, pay or allowances paid to him in terms of the Defence Act, 1957 (Act No. 44 of 1957), is not less than the salary or wages which he received from his employer immediately before his service commenced;
- (b) of paragraph (a) of subsection (1) shall not apply to the obligation of a citizen to pay the following, namely—
 - (i) the rent of any dwelling house, room or tenement;
 - (ii) the price of actual necessities of life supplied by persons, in the ordinary course of their business, to or at the instance of any such citizen after he has commenced to render service;
 - (iii) the amount due in respect of board or lodging supplied or afforded to or at the instance of such citizen after he has commenced to render service;
 - (iv) any amount becoming payable under a hire-purchase agreement as defined in section 1 of the Hire-Purchase Act, 1942 (Act No. 36 of 1942), entered into by a citizen after he had been advised in terms of section 67 of the Defence Act, 1957, of his allotment in terms of that section for service and before he had completed such service, if at the time of entering into such agreement, such citizen has failed to inform the other party to the agreement in writing that he had thus been advised or that he was rendering such service;
- (c) of paragraph (b) of subsection (1) shall not apply to—
 - (i) any action or other legal proceedings of a civil nature against any partnership, if any member of such partnership is not rendering service at the time such action or proceedings are instituted;
 - (ii) any action for the enforcement of an obligation referred to in paragraph (b) (i) and (iii) of this subsection, including any action for the ejectment from any premises referred to in subparagraph (i) or (iii) of that paragraph, and service of process for the purpose of the said subparagraphs (i) and (iii) shall be considered as sufficient if such process is served upon the occupier of such premises;
 - (iii) the issue of any process for the execution of any judgment or order in any action or proceedings mentioned in this paragraph or to the execution of such a judgment or order under such process: Provided that nothing in this subparagraph contained shall be deemed to permit attachment or arrest of his person or attachment of his salary or wages which is or may become due to him or of any allowance made to his dependants from

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kontraktuele skulde deur sodanige burger aange-
gaan vir die hele tydperk waartydens daardie
burger diens doen.

(2) Die bepalings—

- (a) van subartikel (1) (a) is nie van toepassing nie ten opsigte van 'n burger wat terwyl hy diens doen van sy werkgever 'n salaris of loon ontvang wat tesame met die salaris, soldy of toelae wat ingevolge die Verdedigingswet, 1957 (Wet No. 44 van 1957), aan hom betaal word, nie minder is nie as die salaris of loon wat hy van sy werkgever ontvang het onmiddellik voordat sy diens 'n aanvang geneem het;
- (b) van paragraaf (a) van subartikel (1) is nie van toepassing nie op die verpligting van 'n burger om die volgende te betaal, te wete—
 - (i) die huurgelde van 'n woonhuis, kamer of woning;
 - (ii) die prys van werklike lewensbenodigdhede deur persone voorsien, in die gewone loop van hul besigheid, aan of op versoek van so 'n burger nadat hy begin het om diens te doen;
 - (iii) 'n bedrag wat verskuldig is ten opsigte van losies of inwoning voorsien of verskaf aan of op versoek van so 'n burger nadat hy begin het om diens te doen;
 - (iv) 'n bedrag wat betaalbaar word kragtens 'n huurkoopkontrak soos omskryf in artikel 1 van die Wet op Huurkoop, 1942 (Wet No. 36 van 1942), deur 'n burger aangegaan nadat hy ingevolge artikel 67 van die Verdedigingswet, 1957, in kennis gestel was van sy toewysing ingevolge daardie artikel vir diens en voordat hy sodanige diens voltooi het, indien die burger ten tyde van die aangaan van die huurkoopkontrak versuim het om die ander party by die huurkoopkontrak skriftelik daarvan te verwittig dat hy aldus in kennis gestel is of dat hy sodanige diens doen;
- (c) die bepalings van paragraaf (b) van subartikel (1) is nie van toepassing nie op—
 - (i) 'n aksie of enige ander regsgeding van 'n siviele aard teen enige vennootskap, indien 'n lid van sodanige vennootskap nie ten tyde van die instelling van sodanige aksie of geding diens doen nie;
 - (ii) 'n aksie vir die afdwing van 'n verpligting in paragraaf (b) (i) en (iii) van hierdie subartikel bedoel, met inbegrip van 'n aksie vir die ontruiming van 'n perseel in subparagraaf (i) of (iii) van daardie paragraaf bedoel, en betekening van prosesstukke vir die doeleindes van gemelde subparagraawe (i) en (iii) word as voldoende beskou indien sodanige prosesstukke beteken word aan die bewoner van sodanige perseel;
 - (iii) op die uitreiking van 'n lasbrief vir die tenuitvoerlegging van enige vonnis of order in 'n aksie of geding vermeld in hierdie paragraaf of op die tenuitvoerlegging van sodanige vonnis of sodanige order ingevolge sodanige lasbrief. Met dien verstande dat die bepalings van hierdie subparagraaf nie so uitgelê word dat dit die aanhouding of arres van sy persoon of die inbeslagneming van sy salaris of loon of besoldiging wat aan hom verskuldig is of word of van enige toelae toegeken aan sy afhanklikes uit fondse vir hierdie doel deur

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funds appropriated for this purpose by Parliament or of any allowance made by or out of any public fund, or the issue of an order in terms of paragraph (d) of subsection (9) of section 65 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944):

Provided that any action or proceedings so instituted may be stayed by the court on such terms as it may deem proper.

(3) Notwithstanding anything in subsection (1) of this section contained, upon application made to the provincial or local division of the Supreme Court having jurisdiction, such division, if satisfied that there is a probability of such citizen taking advantage of the suspension of his obligations or of civil legal remedies against him to carry on any trade or business without paying his creditors or to dispose of his assets to the prejudice of his creditors or that for any other reason whatsoever it would be just and equitable to do so, may declare that the provisions of subsection (1) shall not apply in respect of any obligation of, or civil legal remedies against such citizen: Provided that the said division may at any time, on application made to it, order that any action or proceedings or the execution of any judgment which would, failing such declaration, have been precluded by the provisions of subsection (1) shall be stayed for such period or on such conditions as it may think fit, if it appears to the said division just and equitable to make such order."

Substitution of section 3 of Act 25 of 1963.

3. The following section is hereby substituted for section 3 of the principal Act:

"Suspension of prescription. 3. Prescription in regard to any obligation or civil legal remedy suspended under this Act, shall be suspended for so long as the suspension of such obligation or legal remedy lasts, and the period of such suspension shall not be deemed to form part of the period of prescription."

Substitution of section 4 of Act 25 of 1963.

4. The following section is hereby substituted for section 4 of the principal Act:

"Interest may be claimed. 4. Whenever a person is debarred under this Act from obtaining payment of any money due to him he shall be entitled to claim interest at the rate of ten per cent per annum on all such moneys due to him during the period of the suspension by which he is debarred from obtaining payment under this Act, or until payment of the principal sum due before the termination of such period."

Substitution of long title of Act 25 of 1963, as amended by section 4 of Act 4 of 1969.

5. The following long title is hereby substituted for the long title to the principal Act:

"To provide for a moratorium in certain circumstances for the protection of citizens and certain non-citizens rendering service in the Citizen Force, the Commandos and the South African Police; to provide for the application of this Act to members of the South African Defence Force and the Reserve called up for service under Chapter X of the Defence Act, 1957 (Act No. 44 of 1957); and to provide for matters incidental thereto."

Short title.

6. This Act shall be called the Moratorium Amendment Act, 1977.

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die Parlement bewillig of van enige toelae toegeken deur of uit enige openbare fonds, of die uitreiking van 'n order ingevolge paragraaf (d) van subartikel (9) van artikel 65 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), magtig nie:

Met dien verstande dat enige aksie of geding aldus ingestel, opgeskort mag word op sodanige voorwaardes as wat die hof goedvind.

(3) Ondanks die bepalinge van subartikel (1) van hierdie artikel kan die bevoegde provinsiale of plaaslike afdeling van die Hooggeregshof, indien hy oortuig is dat die waarskynlikheid bestaan dat sodanige burger gebruik sal maak van die opskorting van sy verpligtinge of van siviele regsmiddels teen hom om enige bedryf of besigheid voort te sit sonder om sy skuldeisers te betaal of om sy bates van die hand te sit tot nadeel van sy skuldeisers of dat dit om 'n ander rede reg en billik sou wees om dit te doen, verklaar dat die bepalinge van subartikel (1) nie ten opsigte van 'n verpligting van, of siviele regsmiddels teen, sodanige burger van toepassing is nie: Met dien verstande dat bedoelde afdeling te eniger tyd op aansoek by hom gedoen, kan gelas dat enige aksie of verrigtinge of die tenuitvoerlegging van 'n vonnis wat, in die afwesigheid van so 'n verklaring deur die bepalinge van subartikel (1) belet sou wees, opgeskort word gedurende die tydperk of op die voorwaardes wat hy goedvind, indien dit vir bedoelde afdeling reg en billik voorkom om so 'n bevel uit te reik."

3. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 3 van Wet 25 van 1963.

„Opskorting van verjaring.

3. Verjaring ten aansien van 'n verpligting of siviele regsmiddel wat ingevolge hierdie Wet opgeskort is, word opgeskort vir solank die opskorting van sodanige verpligting of regsmiddel duur, en die tydperk van sodanige opskorting word nie geag deel van die verjaringstermyn te wees nie."

4. Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 4 van Wet 25 van 1963.

„Rente mag geëis word.

4. Wanneer iemand ingevolge hierdie Wet belet word om betaling van aan hom verskuldigde geld te verkry, is hy geregtig om rente teen tien persent per jaar te eis op al die aan hom verskuldigde geld gedurende die duur van die opskorting uit hoofde waarvan hy ingevolge hierdie Wet belet word om betaling te verkry, of totdat betaling van die verskuldigde hoofsom vóór die verstryking van sodanige tydperk geskied."

5. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:

Vervanging van lang titel van Wet 25 van 1963, soos gewysig deur artikel 4 van Wet 4 van 1969.

„Om voorsiening te maak vir 'n moratorium onder sekere omstandighede ter beskerming van burgers en sekere nie-burgers wat in die Burgermag, die Kommando's en die Suid-Afrikaanse Polisie diens doen; om voorsiening te maak vir die toepassing van hierdie Wet op lede van die Suid-Afrikaanse Weermag en die Reserwe opgeroep vir diens ingevolge Hoofstuk X van die Verdedigingswet, 1957 (Wet No. 44 van 1957); en om vir aangeleenthede wat daarmee in verband staan, voorsiening te maak."

6. Hierdie Wet heet die Moratorium-wysigingswet, 1977.

Kort titel.

