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GOVERNMENT GAZETTE

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[No. 7048

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1116.

28 May 1980.

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

No. 69 of 1980: State Trust Board Amendment Act, 1980.

No. 1116.

28 Mei 1980.

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

No. 69 van 1980: Wysigingswet op die Staatstrustraad, 1980.

Wet No. 69, 1980

WYSIGINGSWET OP DIE STAATSTRUSTRaad, 1980

ALGEMENE VERDUIDELIKENDE NOTA:

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

WET

Tot wysiging van die Wet op die Staatstrustraad, 1979, ten einde die bepaling dat die voorsitter van die Staatstrustraad 'n heeltydse lid van daardie raad moet wees, te skrap; die registrasie van die oordrag van geaffekteerde aandele aan daardie raad meer in besonderhede te reël; voorsiening te maak vir die tersydestelling van sodanige registrasie; daardie raad te magtig om met die oog op die bereiking van sy oogmerke sekere ondersoeke in te stel; te bepaal dat alle siviele gedinge teen daardie raad voor 1 Maart 1981 ingestel moet word en dat kennis vooraf aan daardie raad gegee moet word van die instelling van sodanige gedinge; en die lede van daardie raad en sekere beamptes te vrywaar teen aanspreeklikheid vir handeling wat te goeder trou kragtens die bepalings van daardie Wet verrig is; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 23 Mei 1980.)

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

Wysiging van
artikel 2 van
Wet 88 van 1979.

1. Artikel 2 van die Wet op die Staatstrustraad, 1979 (hieronder die Hoofwet genoem), word hierby gewysig deur subartikel (3) te skrap. 5

Wysiging van
artikel 6 van
Wet 88 van 1979.

2. Artikel 6 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (2) deur die volgende paragraaf te vervang:

- „(c) (i) Die sekretaris van 'n maatskappy moet by die 10
voorlegging aan hom van 'n sertifikaat deur die
raad uitgereik met die strekking dat bepaalde
aandele in daardie maatskappy geaffekteerde aan-
dele is, in die lederegister van daardie maatskappy
die oordrag van daardie aandele aan die raad 15
ooreenkomstig artikel 133 van die Maatskappyywet,
1973 (Wet No. 61 van 1973), registreer asof
daardie sertifikaat 'n gepaste oordragakte, soos in
daardie artikel bedoel, van daardie aandele is, en
moet aan die persoon in wie se naam daardie 20
aandele geregistreer is, skriftelik kennis gee van
sodanige registrasie, en by sodanige registrasie
word die raad, behoudens die bepalings van
subparagraawe (ii) en (iii), 'n lid van daardie
maatskappy en is hy, as die houer van daardie 25
aandele, bevoeg en verplig om alle bevoegdhede uit
te oefen en alle pligte te verrig wat ingevolge
daardie Wet aan so 'n houer verleen of opgelê
word.
(ii) Enigiemand wat hom veronreg ag deur die regi- 30
strasie van die oordrag van aandele ingevolge
subparagraaf (i) kan binne 'n tydperk van 30 dae

STATE TRUST BOARD AMENDMENT ACT, 1980

Act No. 69, 1980

GENERAL EXPLANATORY NOTE:

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the State Trust Board Act, 1979, so as to delete the provision that the chairman of the State Trust Board shall be a full-time member of that board; to regulate in greater detail the registration of the transfer of affected shares to that board; to provide for the setting aside of such registration; to empower that board to conduct certain enquiries with a view to the achievement of its objects; to provide that all civil actions against that board shall be instituted before 1 March 1981 and that prior notice shall be given to that board of the institution of such actions; and to indemnify the members of that board and certain officers against liability for acts performed in good faith under the provisions of that Act; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 23 May 1980.)*

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

1. Section 2 of the State Trust Board Act, 1979 (hereinafter referred to as the principal Act), is hereby amended by the deletion of subsection (3). Amendment of section 2 of Act 88 of 1979.

2. Section 6 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (2) of the following paragraph: Amendment of section 6 of Act 88 of 1979.

- 10 “(c) (i) The secretary of a company shall upon the
 production to him of a certificate issued by the
 board to the effect that particular shares in that
 company are affected shares, register in the register
15 of members of that company the transfer to the
 board of those shares in accordance with section
 133 of the Companies Act, 1973 (Act No. 61 of
 1973), as if that certificate were a proper instrument
 of transfer, as contemplated in that section, of those
20 shares, and shall give to the person in whose name such
 shares have been registered written notice of such
 registration, and upon such registration the board
 shall, subject to the provisions of subparagraphs (ii)
 and (iii), become a member of that company and shall,
25 as the holder of such shares, be entitled and obliged to
 exercise all powers and to carry out all duties conferred
 or imposed upon such holder by that Act.
- (ii) Any person who feels aggrieved at the registration
 of the transfer of shares in terms of subparagraph
 (i) may within a period of 30 days from the date of

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- vanaf die datum van daardie registrasie, by die Transvaalse Provinsiale Afdeling van die Hooggeregshof aansoek doen om die tersydestelling van die registrasie, en daardie Afdeling kan die bevel uitreik wat hy in die omstandighede billik ag.
- (iii) Die raad is nie bevoeg om gedurende die tydperk in subparagraaf (ii) vermeld of, indien 'n aansoek in daardie subparagraaf vermeld, gedoen is, totdat daardie aansoek finaal afgehandel is, enige aandele waarvan die oordrag ingevolge hierdie paragraaf geregistreer is, oor te dra nie."

Invoeging van
artikel 6A in
Wet 88 van 1979.

3. Die volgende artikel word hierby in die Hoofwet na artikel 6 ingevoeg:

„Ondersoek
deur raad.

- 6A.** (1) (a) Die raad kan met die oog op die bereiking van sy oogmerk in artikel 4 vermeld die ondersoek wat hy nodig ag, instel, en die raad kan iemand wat na sy oordeel inligting kan verstrek wat die raad in staat sou kon stel om daardie oogmerk te bereik, dagvaar om voor hom te verskyn en getuienis af te lê of om 'n boek, geskrif of saak wat in sy besit of bewaring of onder sy beheer is en wat na die oordeel van die raad op die onderwerp van die ondersoek betrekking het, voor te lê, en die raad kan iemand wat aldus gedagvaar is, ondervra en 'n boek, geskrif of saak aldus voorgelê, ondersoek en vir 'n redelike tyd hou.
- (b) In verband met die ondervraging van iemand kragtens hierdie artikel gedagvaar of die voorlegging deur so iemand van 'n boek, geskrif of saak, is die regsreëls met betrekking tot privilegie wat geld in die geval van 'n persoon wat gedagvaar is om voor 'n geregshof getuienis af te lê of om 'n boek, geskrif of saak voor te lê, van toepassing: Met dien verstande dat so iemand nie kan weier om 'n vraag gedurende sodanige ondervraging aan hom gestel, te beantwoord nie op grond daarvan dat die antwoord die strekking kan hê om hom te inkrimineer.
- (2) 'n Dagvaarding ingevolge subartikel (1) is in die vorm wat die voorsitter van die raad bepaal, word deur die voorsitter onderteken en word op dieselfde wyse beteken as 'n dagvaarding van 'n getuie in 'n strafgeding in die Hooggeregshof.
- (3) (a) Wanneer die raad dit nodig ag, kan hy iemand wat kragtens hierdie artikel gedagvaar is, gelas om sy getuienis onder eed of na die doen van 'n bevestiging af te lê.
- (b) Die persoon wat by 'n ondersoek gehou ingevolge hierdie artikel voorsit, kan aan iemand wat aldus gedagvaar is die eed opleë of van hom 'n bevestiging aanneem.
- (4) Iemand wat kragtens hierdie artikel gedagvaar is, is geregtig om deur 'n advokaat of prokureur bygestaan te word wanneer hy ondervra word.
- (5) Die voorsitter van die raad of die persoon wat by so 'n ondersoek voorsit, kan enige persoon aanwys om getuienis aan die raad voor te lê, om iemand wat as getuie gedagvaar is, te ondervra en om 'n betoog betreffende die onderwerp van die ondersoek te lewer.
- (6) Enige getuienis of betoog by 'n ondersoek ingevolge hierdie artikel word in die openbaar aangehoor: Met dien verstande dat die persoon wat by die ondersoek voorsit, kan gelas dat sodanige getuienis of betoog agter geslote deure aangehoor moet word indien hy van oordeel is dat die openbaarmaking daarvan die raad by die verrigting van sy werksaamhede kan belemmer of die behoorlike verrigting van daardie werksaamhede nadelig kan raak of die veiligheid van die Staat in gevaar kan stel.

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that registration apply to the Transvaal Provincial Division of the Supreme Court for the setting aside of the registration, and that Division may make such order as in the circumstances it may deem just.

- 5 (iii) During the period referred to in subparagraph (ii) or, if an application mentioned in that subparagraph has been made, until such application has been finally disposed of, the board shall not be entitled to transfer any shares the transfer of which has
10 been registered in terms of this paragraph."

3. The following section is hereby inserted in the principal Act after section 6:

Insertion of
section 6A in
Act 88 of 1979.

"Enquiry
by board.

- 15 **6A. (1) (a)** The board may with a view to achieving its object referred to in section 4 conduct such enquiry as it may deem fit, and the board may summon any person who in its opinion may be able to give information which could enable the board to achieve that object, to appear before it and to give evidence or to produce any book, writing or matter which is in his possession or custody or under his control and which in the opinion of the board is relevant to the subject matter of the enquiry, and the board may examine any person so summoned and inspect and retain for a reasonable period any book, writing or matter so produced.
- 20 (b) In connection with the examination of any person summoned under this section or the production by such person of any book, writing or matter, the law relating to privilege as applicable to a person subpoenaed to give evidence or to produce any book, writing or matter before a court of law shall apply: Provided that such person may not refuse to answer any question put to him during such examination on the ground that the answer may tend to incriminate him.
- 25 (2) Any summons in terms of subsection (1) shall be in the form determined by the chairman of the board, shall be signed by the chairman and shall be served in the same manner as a subpoena of a witness in criminal proceedings in the Supreme Court.
- 30 (3) (a) Whenever the board deems it necessary it may direct any person summoned under this section to give his evidence on oath or after having made an affirmation.
- 35 (b) The person presiding at an enquiry conducted in terms of this section may administer the oath to or accept an affirmation from any person so summoned.
- 40 (4) Any person summoned under this section shall be entitled to be assisted by an advocate or attorney when he is examined.
- 45 (5) The chairman of the board or the person presiding at such enquiry, may designate any person to present evidence to the board, to examine any person summoned as a witness and to present an argument regarding the subject matter of the enquiry.
- 50 (6) Any evidence or argument at an enquiry in terms of this section shall be heard in public: Provided that the person presiding at the enquiry may direct that such evidence or argument shall be heard *in camera* if he is of the opinion that the publication thereof may obstruct the board in the performance of its functions or may prejudicially affect the proper performance of such functions or may endanger the safety of the State.
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(7) Iemand wat kragtens hierdie artikel gedagvaar is, is geregtig om uit die Inligtingstrustrekening as getuiegeld 'n bedrag te ontvang wat gelyk is aan die bedrag wat hy as getuiegeld sou ontvang het as hy gedagvaar was om 'n strafgeding in die Hooggeregs- hof, gehou op die plek vermeld in die dagvaarding wat aan hom beteken is, by te woon. 5

(8) Iemand wat—

- (a) gedagvaar is om voor die raad te verskyn om getuienis af te lê of 'n boek, geskrif of saak voor te lê en wat sonder voldoende rede (waarvan die bewyslas op hom rus) versuim om op die tyd en plek in die dagvaarding aangegee, te verskyn, of om aanwesig te bly totdat die ondersoek voltooi is of totdat die persoon wat by die ondersoek voorsit hom verlof gegee het om afwesig te wees, of na verskyning weier om as getuie die eed af te lê of 'n bevestiging te doen nadat die persoon wat aldus voorsit dit van hom vereis het of, na eedaflegging of bevestiging, weier om elke wettig aan hom gestelde vraag ten volle en op bevredigende wyse te beantwoord, of versuim om 'n boek, geskrif of saak voor te lê wat in sy besit of bewaring of onder sy beheer is en tot voorlegging waarvan hy gedagvaar is; 10 15 20 25
- (b) nadat hy die eed afgelê of 'n bevestiging gedoen het, omtrent enige onderwerp valse getuienis voor die raad aflê met die wete dat daardie getuienis vals is of terwyl hy nie weet of glo dat dit juis is nie, 30
- is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of met daardie boete sowel as daardie gevangenisstraf.''. 35

Wysiging van artikel 7 van Wet 88 van 1979.

4. Artikel 7 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

„(6) Enige siviele geding teen die raad wat voortvloei uit verpligtinge van die Staat wat geskep is of voortspruit soos in artikel 6 (1) bedoel, moet ingestel word voor 1 Maart 1981, en skriftelike kennis van enige sodanige geding, en van die oorsaak daarvan, moet aan die raad gegee word minstens een maand voor die instelling daarvan.”. 40

Invoeging van artikel 10A in Wet 88 van 1979.

5. (1) Die volgende artikel word hierby in die Hoofwet na artikel 10 ingevoeg: 45

„Vrywaring. 10A. 'n Lid van die raad of enige beampte in artikel 9 vermeld, is nie aanspreeklik ten opsigte van enigiets wat te goeder trou kragtens hierdie Wet gedoen is nie.”.

(2) Subartikel (1) word geag op 19 Junie 1979 in werking te 50 getree het.

Kort titel.

6. Hierdie Wet heet die Wysigingswet op die Staatstrustraad, 1980.

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(7) Any person summoned under this section shall be entitled to receive as witness fees from the Information Trust Account an amount equal to the amount which he would have received as witness fees if he had been summoned to attend at criminal proceedings in the Supreme Court, held at the place mentioned in the summons served upon him.

(8) Any person who—

(a) having been summoned to appear before the board to give evidence or to produce any book, writing or matter, without sufficient cause (the onus of proof whereof shall rest upon him) fails to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the inquiry or until he is excused by the person presiding at the enquiry from further attendance, or having attended, refuses to be sworn or to make affirmation as a witness after he has been required by the person so presiding to do so, or having been sworn or having made an affirmation, fails to answer fully and satisfactorily any question lawfully put to him, or fails to produce any book, writing or matter in his possession or custody or under his control which he has been summoned to produce;

(b) having been sworn or having made affirmation, gives false evidence before the board on any matter, knowing such evidence to be false or not knowing or believing it to be true,

shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.”.

4. Section 7 of the principal Act is hereby amended by the addition of the following subsection:

Amendment of section 7 of Act 88 of 1979.

“(6) Any civil action against the board arising from liabilities of the State which were created or arose as contemplated in section 6 (1) shall be instituted before 1 March 1981, and written notice of any action as well as its cause shall be given to the board not less than one month before the institution thereof.”.

5. (1) The following section is hereby inserted in the principal Act after section 10:

Insertion of section 10A in Act 88 of 1979.

“10A. A member of the board or any officer referred to in section 9 shall not be liable in respect of anything done *bona fide* under this Act.”.

(2) Subsection (1) shall be deemed to have come into operation on 19 June 1979.

6. This Act shall be called the State Trust Board Amendment Act, 1980. Short title.

