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GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

No. 1177.

17 Junie 1988

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

No. 57 van 1988: Wet op die Beheer oor Trustgoed, 1988.

STATE PRESIDENT'S OFFICE

No. 1177.

17 June 1988

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

No. 57 of 1988: Trust Property Control Act, 1988.

Wet No. 57, 1988

WET OP DIE BEHEER OOR TRUSTGOED, 1988

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
-
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.
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-

WET

Om die beheer oor trustgoed verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 1 Junie 1988.)*

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

Woordomskrywings

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
“bankinstelling” ’n instelling wat ingevolge die Bankwet, 1965 (Wet No. 23 van 5
1965), anders as voorlopig as ’n bank geregistreer is;
“bouvereniging” ’n onderlinge bouvereniging finaal geregistreer as ’n onderlinge bouvereniging ingevolge die Wet op Onderlinge Bouverenigings, 1965
(Wet No. 24 van 1965), of ’n bouvereniging finaal geregistreer as ’n bouvereniging ingevolge die Wet op Bouverenigings, 1986 (Wet No. 82 van 10
1986);
“finansiële instelling” ’n finansiële instelling soos omskryf in die Wet op Finansiële Instellings (Belegging van Fondse), 1984 (Wet No. 39 van 1984);
“hof” die provinsiale of plaaslike afdeling van die Hooggeregtshof van Suid-Afrika watregsbevoegdheid het; 15
“Meester”, met betrekking tot enige aangeleenthed, die Meester, Adjunk-meester of Assistent-meester van die Hooggeregtshof kragtens artikel 2 van die Boedelwet, 1965 (Wet No. 66 van 1965), aangestel wat kragtens artikel 3 van hierdie Wet ten opsigte van die betrokke aangeleenthed regsbevoegdheid het; 20
“trust” die reëling waardeur een persoon se goed uit hoofde van ’n trustdokument—
(a) aan iemand anders, die trustee, in die geheel of gedeeltelik in eiendom oorgemaak of nagelaat word om ooreenkomsdig die voorskrifte van die trustdokument geadministreer te word of oor beskik te word tot voordeel van die persoon of klas van persone in die trustdokument aangewys of ter bereiking van die doel in die trustdokument omskryf; of 25
(b) aan die bevoordeeldes in die trustdokument aangewys in eiendom oorgemaak of nagelaat word, welke goed ingevolge die trustdokument onder die beheer gestel word van iemand anders, die trustee, om ooreenkomsdig die voorskrifte van die trustdokument geadministreer te word of oor beskik te word tot voordeel van die persoon of klas van persone in die trustdokument aangewys of ter bereiking van die doel in die trustdokument omskryf, 30

TRUST PROPERTY CONTROL ACT, 1988

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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 regulate further the control of trust property; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 1 June 1988.) —*

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

Definitions

1. In this Act, unless the context otherwise indicates—
- 5 “banking institution” means an institution registered otherwise than provisionally as a bank in terms of the Banks Act, 1965 (Act No. 23 of 1965);
- “building society” means a mutual building society registered finally as a mutual building society in terms of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), or a building society registered finally as a building society in terms of the Building Societies Act, 1986 (Act No. 82 of 1986);
- 10 “court” means the provincial or local division of the Supreme Court of South Africa having jurisdiction;
- “financial institution” means a financial institution as defined in the Financial Institutions (Investment of Funds) Act, 1984 (Act No. 39 of 1984);
- 15 “Master”, in relation to any matter, means the Master, Deputy Master or Assistant Master of the Supreme Court appointed under section 2 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), who under section 3 of this Act has jurisdiction in respect of the matter concerned;
- “trust” means the arrangement through which the ownership in property of one person is by virtue of a trust instrument made over or bequeathed—
- 20 (a) to another person, the trustee, in whole or in part, to be administered or disposed of according to the provisions of the trust instrument for the benefit of the person or class of persons designated in the trust instrument or for the achievement of the object stated in the trust instrument; or
- 25 (b) to the beneficiaries designated in the trust instrument, which property is placed under the control of another person, the trustee, to be administered or disposed of according to the provisions of the trust instrument for the benefit of the person or class of persons designated in the trust instrument or for the achievement of the object stated in the trust instrument,
- 30 but does not include the case where the property of another is to be administered by any person as executor, tutor or curator in terms of the provisions of the Administration of Estates Act, 1965 (Act No. 66 of 1965);

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maar nie ook die geval waar iemand die goed van 'n ander moet administreer as eksekuteur, voog of kurator ingevolge die bepaling van die Boedelwet, 1965 (Wet No. 66 van 1965), nie;

"trustdokument" 'n skriftelike ooreenkoms of 'n testamentêre geskrif of 'n hofbevel waarvolgens 'n trust tot stand gebring is;

"trustee" iemand (met inbegrip van die oprigter van 'n trust) wat as trustee optree uit hoofde van 'n magtiging kragtens artikel 6 en ook iemand wie se aanstelling as trustee by die inwerkingtreding van hierdie Wet reeds van krag is;

"trustgoed" of "goed" roerende goed of onroerende goed, en ook enige voorwaardelike reg op goed, wat deur 'n trustee ooreenkomstig die voorskrifte van 'n trustdokument gadministreer of oor besik moet word.

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Sekere dokumente geag trustdokumente te wees

2. Indien 'n dokument die opskrifstelling van 'n mondelinge ooreenkoms uitmaak waarby 'n trust tot stand gebring of gewysig is, word so 'n dokument vir die doeleindes van hierdie Wet geag 'n trustdokument te wees.

Regsbevoegdheid van Meesters

- 3.** (1) (a) Ten opsigte van trustgoed wat ingevolge 'n testamentêre geskrif gadministreer of oor besik moet word, berus die regsbevoegdheid by die Meester by wie se kantoor die testamentêre geskrif of 'n afskrif daarvan geregistreer en aanvaar is, en in enige ander geval, by die Meester binne wie se gebied van aanstelling ingevolge artikel 2 van die Boedelwet, 1965 (Wet No. 66 van 1965), die grootste gedeelte van die trustgoed geleë is: Met dien verstande dat 'n Meester watregsbevoegdheid uitgeoefen het, ondanks enige verandering in ligging van die grootste gedeelte van die trustgoed sy bevoegdheid bly behou.
- (b) Ondanks die bepaling van paragraaf (a) kan 'n Meester wat anders geen regsbevoegdheid ten opsigte van trustgoed sou besit nie, op skriftelike aansoek van iemand wat by daardie trustgoed belang het, en met die toestemming van die Meester wat wel dieregsbevoegdheid besit,regsbevoegdheid ten opsigte van daardie trustgoed op hom neem.

(2) 'n Handeling deur 'n Meester verrig met die *bona fide*-oortuiging dat hyregsbevoegdheid besit, is nie bloot omdat dit deur 'n ander Meester verrig moes gewees het, ongeldig nie.

(3) Indien meer as een Meester, met so 'n oortuiging, ten opsigte van dieselfde trustgoedregsbevoegdheid uitgeoefen het, word daardie goed, sonder afbreuk aan die geldigheid van enige handeling wat alreeds deur of kragtens die magtiging van 'n ander Meester verrig is, sodra die betrokke Meesters dit te wete kom, gadministreer of oor besik onder toesig van die Meester wat bedoelde bevoegdheid eerste uitgeoefen het, en enige magtiging of aanstelling van 'n trustee wat deur 'n ander Meester ten opsigte van daardie goed gedoen is, word daarop deur bedoelde ander Meester ingetrek.

Indiening van trustdokument

4. (1) Behalwe in die geval waar die Meester reeds in besit van die betrokke trustdokument of wysiging daarvan is, moet 'n trustee wie se aanstelling na die inwerkingtreding van hierdie Wet van krag word, voordat hy die beheer oor die trustgoed aanvaar, teen betaling van die voorgeskrewe gelde, die trustdokument ingevolge waarvan die trustgoed deur hom gadministreer of oor besik moet word, of 'n afskrif daarvan wat deur 'n notaris of 'n ander persoon deur die Meester goedgekeur as juis gesertifiseer is, by die Meester indien.

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(2) Wanneer 'n trustdokument wat by die Meester ingedien is, gewysig word, moet die trustee die wysiging of 'n aldus gesertifiseerde afskrif daarvan by die Meester indien.

Kennisgewing van adres

5. Iemand wie se aanstelling as trustee na die inwerkingtreding van hierdie Wet van krag word, is verplig om aan die Meester 'n adres te verstrek vir die betekening aan hom van kennisgewings en prosesstukke en moet in geval van adresverandering die Meester binne 14 dae skriftelik per geregistreerde pos van die nuwe adres in kennis stel.

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- "trustee" means any person (including the founder of a trust) who acts as trustee by virtue of an authorization under section 6 and includes any person whose appointment as trustee is already of force and effect at the commencement of this Act;
- 5 "trust instrument" means a written agreement or a testamentary writing or a court order according to which a trust was created;
- "trust property" or "property" means movable or immovable property, and includes contingent interests in property, which in accordance with the provisions of a trust instrument are to be administered or disposed of by a trustee.
- 10

Certain documents deemed to be trust instruments

2. If a document represents the reduction to writing of an oral agreement by which a trust was created or varied, such document shall for the purposes of this Act be deemed to be a trust instrument.

15 Jurisdiction of Masters

3. (1) (a) In respect of trust property which is to be administered or disposed of in terms of a testamentary writing, jurisdiction shall lie with the Master in whose office the testamentary writing or a copy thereof is registered and accepted, and in any other case, with the Master in whose area of appointment in terms of the Administration of Estates Act, 1965 (Act No. 66 of 1965), the greater or greatest portion of the trust property is situated: Provided that a Master who has exercised jurisdiction shall continue to have jurisdiction notwithstanding any change in the situation of the greater or greatest portion of the trust property.
- 20 (b) Notwithstanding the provisions of paragraph (a) a Master who would otherwise have no jurisdiction in respect of trust property may, on written application by any person having an interest in that trust property, and with the consent of the Master who has such jurisdiction, assume jurisdiction of that trust property.
- 25 (2) No act performed by a Master in the *bona fide* belief that he has jurisdiction shall be invalid merely on the ground that it should have been performed by another Master.
- (3) If more than one Master has in such belief exercised jurisdiction in respect of the same trust property, that property shall, without prejudice to the validity of any 35 act already performed by or under the authority of any other Master, as soon as it becomes known to the Masters concerned, be administered or disposed of under the supervision of the Master who first exercised such jurisdiction, and any authorization or appointment of a trustee made by any other Master in respect of that property, shall thereupon be cancelled by such other Master.

40 Lodgement of trust instrument

4. (1) Except where the Master is already in possession of the trust instrument in question or an amendment thereof, a trustee whose appointment comes into force after the commencement of this Act shall, before he assumes control of the trust 45 property, upon payment of the prescribed fee, lodge with the Master the trust instrument in terms of which the trust property is to be administered or disposed of by him, or a copy thereof certified as a true copy by a notary or other person approved by the Master.

- (2) When a trust instrument which has been lodged with the Master is varied, the 50 trustee shall lodge the amendment or a copy thereof so certified with the Master.

Notification of address

5. A person whose appointment as trustee comes into effect after the commencement of this Act, shall furnish the Master with an address for the service upon him of notices and process and shall, in case of change of address, within 14 days notify 55 the Master by registered post of the new address.

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Magtiging van trustee en sekerheidstelling

6. (1) Iemand wie se aanstelling as trustee ingevolge 'n trustdokument, artikel 7 of 'n hofbevel na die inwerkingtreding van hierdie Wet van krag word, tree in daardie hoedanigheid op slegs indien deur die Meester skriftelik daartoe gemagtig.

(2) Die Meester verleen geen magtiging aan die trustee ingevolge hierdie artikel nie, tensy—

- (a) hy tot tevredenheid van die Meester sekerheid gestel het vir die behoorlike en getroue verrigting van sy pligte as trustee; of
- (b) hy deur 'n hofbevel of deur die Meester kragtens subartikel (3) (a) of, behoudens die bepalings van subartikel (3) (d), ingevolge 'n trustdokument, van die stel van sekerheid vrygestel is:

Met dien verstande dat waar die stel van sekerheid vereis word, die Meester, hangende die stel van sekerheid, die trustee skriftelik kan magtig om gespesifieerde handelinge met betrekking tot die trustgoed te verrig.

(3) Die Meester kan, indien na sy oordeel gegrondre redes daarvoor bestaan— 15

- (a) ongeag of sekerheidstelling deur die trustdokument (uitgesonderd 'n hofbevel) vereis word al dan nie, van sekerheidstelling deur 'n trustee afsien;
- (b) enige sekerheid wat gestel is, verminder of ophef;
- (c) 'n trustee gelas om bykomende sekerheid te stel;
- (d) 'n trustee wat ingevolge 'n trustdokument (uitgesonderd 'n hofbevel) van sekerheidstelling vrygestel is, gelas om sekerheid te stel.

(4) Indien enige magtiging ingevolge hierdie artikel gegee word aan 'n trustee wat 'n regspersoon is, word sodanige magtiging, behoudens die bepalings van die trustdokument, op naam van 'n genomineerde van die regspersoon vir wie se optrede as trustee die regspersoon regtens aanspreeklik is, gegee, en enige vervanging van daardie genomineerde deur enige ander persoon word op bedoelde magtiging geëndosseer. 25

Aanstelling van trustee en mede-trustee deur Meester

7. (1) Indien die amp van trustee nie gevul kan word nie of vakant word, moet die Meester, by ontstentenis van enige voorsiening in die trustdokument, na oorlegpleging met soveel belanghebbendes as wat hy mag nodig ag, iemand as trustee aanstel. 30

(2) Wanneer die Meester dit wenslik ag, kan hy, ondanks die bepalings van die trustdokument, iemand wat hy geskik ag as mede-trustee van enige dienende trustee aanstel. 35

Buitelandse trustees

8. Wanneer iemand wat buite die Republiek as 'n trustee aangestel is, trustgoed in die Republiek moet administreer of daaroor moet beskik, is die bepalings van hierdie Wet ten opsigte van daardie trustgoed op daardie trustee van toepassing en kan die Meester so 'n trustee kragtens artikel 6 magtig om as trustee ten opsigte van daardie goed op te tree. 40

Sorgsaamheid, ywer en kundigheid van trustee vereis

9. (1) 'n Trustee moet by die nakoming van sy pligte en die uitoefening van sy bevoegdhede met die sorgsaamheid, ywer en kundigheid optree wat redelikerwys verwag kan word van 'n persoon wat die sake van 'n ander hanteer. 45

(2) 'n Bepaling van 'n trustdokument wat die uitwerking sou hê dat 'n trustee vrygestel word van of gevrywaar word teen aanspreeklikheid vir troubreuk indien hy versuim om die mate van sorg, kundigheid en vlyt aan die dag te lê soos in subartikel (1) vereis, is nietig.

Trustrekening

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10. Wanneer iemand in sy hoedanigheid van trustee geld ontvang, moet hy daardie geld by 'n bankinstelling of bouvereniging in 'n afsonderlike trustrekening stort.

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Authorization of trustee and security

6. (1) Any person whose appointment as trustee in terms of a trust instrument, section 7 or a court order comes into force after the commencement of this Act, shall act in that capacity only if authorized thereto in writing by the Master.

5 (2) The Master does not grant authority to the trustee in terms of this section, unless—

- (a) he has furnished security to the satisfaction of the Master for the due and faithful performance of his duties as trustee; or
- (b) he has been exempted from furnishing security by a court order or by the Master under subsection (3) (a) or, subject to the provisions of subsection (3) (d), in terms of a trust instrument:

10 Provided that where the furnishing of security is required, the Master may, pending the furnishing of security, authorize the trustee in writing to perform specified acts with regard to the trust property.

15 (3) The Master may, if in his opinion there are sound reasons to do so—

- (a) whether or not security is required by the trust instrument (except a court order), dispense with security by a trustee;
- (b) reduce or cancel any security furnished;
- (c) order a trustee to furnish additional security;
- 20 (d) order a trustee who has been exempted from furnishing security in terms of a trust instrument (except a court order) to furnish security.

25 (4) If any authorization is given in terms of this section to a trustee which is a corporation, such authorization shall, subject to the provisions of the trust instrument, be given in the name of a nominee of the corporation for whose actions as trustee the corporation is legally liable, and any substitution for such nominee of some other person shall be endorsed on the said authorization.

Appointment of trustee and co-trustee by Master

7. (1) If the office of trustee cannot be filled or becomes vacant, the Master shall, in the absence of any provision in the trust instrument, after consultation with so many interested parties as he may deem necessary, appoint any person as trustee.

(2) When the Master considers it desirable, he may, notwithstanding the provisions of the trust instrument, appoint as co-trustee of any serving trustee any person whom he deems fit.

Foreign trustees

35 **8.** When a person who was appointed outside the Republic as trustee has to administer or dispose of trust property in the Republic, the provisions of this Act shall apply to such trustee in respect of such trust property and the Master may authorize such trustee under section 6 to act as trustee in respect of that property.

Care, diligence and skill required of trustee

40 **9.** (1) A trustee shall in the performance of his duties and the exercise of his powers act with the care, diligence and skill which can reasonably be expected of a person who manages the affairs of another.

(2) Any provision contained in a trust instrument shall be void in so far as it would have the effect of exempting a trustee from or indemnifying him against liability for 45 breach of trust where he fails to show the degree of care, diligence and skill as required in subsection (1).

Trust account

10. Whenever a person receives money in his capacity as trustee, he shall deposit such money in a separate trust account at a banking institution or building society.

Registrasie en identifikasie van trustgoed

11. (1) Behoudens die bepalings van die Wet op Finansiële Instellings (Belegging van Fondse), 1984 (Wet No. 39 van 1984), artikel 40 van die Boedelwet, 1965 (Wet No. 66 van 1965), en die bepalings van die betrokke trustdokument, moet 'n trustee—

- (a) in sy boekhouding die goed wat hy in sy hoedanigheid van trustee hou, duidelik aandui;
- (b) trustgoed, waar toepaslik, op so 'n wyse regstreer of geregstreer hou dat dit duidelik uit die registrasie blyk dat dit trustgoed is;
- (c) enige rekening of belegging by 'n finansiële instelling as 'n trustrekening of 10 trustbelegging herkenbaar maak;
- (d) in die geval van trustgoed behalwe goed bedoel in paragrawe (b) en (c), sodanige goed so goed as wat moontlik is as trustgoed herkenbaar maak.

(2) Vir sover die registrasie of identifikasie van trustgoed wat by die inwerkting van hierdie Wet deur 'n trustee geadministreer word, nie aan die voorskrifte 15 van subartikel (1) voldoen nie, moet die trustee binne 'n tydperk van 12 maande na bedoelde inwerktingreding die stappe doen of laat doen wat nodig is om die registrasie of identifikasie van daardie goed in ooreenstemming met bedoelde voorskrifte te bring.

(3) By 'n aansoek ingevolge subartikel (2) om die registrasie van trustgoed in 20 ooreenstemming te bring met die voorskrifte van subartikel (1), moet die amptenaar wat aan die hoof staan van 'n registrasiekantoor waar sodanige trustgoed geregstreer is, kosteloos die stappe doen wat nodig is om die vereiste registrasie te laat geskied.

Afsonderlike posisie van trustgoed

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12. Trustgoed vorm nie deel van die trustee se persoonlike boedel nie behalwe vir sover hy as trustbevoordeelde op die trustgoed geregtig is.

Bevoegdheid van hof om trustbepalings te wysig

13. Indien 'n trustdokument 'n bepaling bevat wat gevolge teweegbring wat die oprichter van 'n trust na die hof se oordeel nie beoog of voorsien het nie en wat—

- (a) die bereiking van die oprichter se oogmerke belemmer; of
- (b) die belang van bevoordeeldes benadeel; of
- (c) in stryd met die openbare belang is,

kan die hof op aansoek van die trustee of enige persoon wat na die hof se oordeel voldoende belang by die trustgoed het, enige sodanige bepaling skrap of wysig of ten 35 opsigte daarvan enige bevel gee wat daardie hof billik ag, met inbegrip van 'n bevel waarby bepaalde trustgoed deur bepaalde ander goed vervang word, of 'n bevel wat die trust beëindig.

Wysiging van trustdokument

14. Wanneer 'n trustbevoordeelde onder voogdy of kuratele geregtig word op 'n voordeel ingevolge 'n trustdokument, kan die voog of kurator van so 'n bevoordeelde namens die bevoordeelde tot 'n wysiging van die bepalings van 'n trustdokument toestem mits die wysiging tot voordeel van die trustbevoordeelde is.

Rapportering van onreëlmatighede

15. Indien 'n onreëlmatigheid in verband met die administrasie van 'n trust tot die 45 kennis kom van 'n persoon wat die rekenings van 'n trust ouditeer, moet so 'n persoon, indien dit na sy oordeel 'n wesenlike onreëlmatigheid is, dit skriftelik aan die trustee rapporteer, en indien daardie onreëlmatigheid nie binne een maand vanaf die datum waarop dit aan die trustee gerapporteer is, tot tevredenheid van so 'n persoon reggestel word nie, moet daardie persoon dit skriftelik aan die Meester 50 rapporteer.

Meester kan rekenskap van trustee vra

16. (1) 'n Trustee moet op skriftelike versoek van die Meester tot sy tevredenheid en ooreenkomsdig die Meester se voorskrifte, rekenskap van sy administrasie van en beskikking oor trustgoed gee en moet op skriftelike versoek van die Meester 55 enige boek, aantekening, rekening of dokument wat op sy administrasie van of

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Registration and identification of trust property

- 11.** (1) Subject to the provisions of the Financial Institutions (Investment of Funds) Act, 1984 (Act No. 39 of 1984), section 40 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), and the provisions of the trust instrument concerned, 5 a trustee shall—
- (a) indicate clearly in his bookkeeping the property which he holds in his capacity as trustee;
 - (b) if applicable, register trust property or keep it registered in such manner as to make it clear from the registration that it is trust property;
 - 10 (c) make any account or investment at a financial institution identifiable as a trust account or trust investment;
 - (d) in the case of trust property other than property referred to in paragraphs (b) or (c), make such property identifiable as trust property in the best possible manner.
- 15 (2) In so far as the registration or identification of trust property being administered by a trustee at the commencement of this Act does not comply with the requirements of subsection (1), the trustee shall within a period of 12 months after the said commencement take such steps or cause such steps to be taken as may be necessary to bring the registration or identification of such property into conformity 20 with the said requirements.
- (3) Upon application in terms of subsection (2) to bring the registration of trust property into line with the provisions of subsection (1), the officer in charge of a deeds registry where such trust property is registered, shall free of charge take such steps as may be necessary to effect the required registration.

25 Separate position of trust property

- 12.** Trust property shall not form part of the personal estate of the trustee except in so far as he as trust beneficiary is entitled to the trust property.

Power of court to vary trust provisions

- 13.** If a trust instrument contains any provision which brings about consequences 30 which in the opinion of the court the founder of a trust did not contemplate or foresee and which—
- (a) hampers the achievement of the objects of the founder; or
 - (b) prejudices the interests of beneficiaries; or
 - (c) is in conflict with the public interest,
- 35 the court may, on application of the trustee or any person who in the opinion of the court has a sufficient interest in the trust property, delete or vary any such provision or make in respect thereof any order which such court deems just, including an order whereby particular trust property is substituted for particular other property, or an order terminating the trust.

40 Variation of trust instrument

- 14.** Whenever a trust beneficiary under tutorship or curatorship becomes entitled to a benefit in terms of a trust instrument, the tutor or curator of such a beneficiary may on behalf of the beneficiary agree to the amendment of the provisions of a trust instrument, provided such amendment is to the benefit of the beneficiary.

45 Report of irregularities

- 15.** If an irregularity in connection with the administration of a trust comes to the notice of a person who audits the accounts of a trust, such person shall, if in his opinion it is a material irregularity, report it in writing to the trustee, and if such irregularity is not rectified to the satisfaction of such person within one month as 50 from the date upon which it was reported to the trustee, that person shall report it in writing to the Master.

Master may call upon trustee to account

- 16.** (1) A trustee shall, at the written request of the Master, account to the Master to his satisfaction and in accordance with the Master's requirements for his 55 administration and disposal of trust property and shall, at the written request of the Master, deliver to the Master any book, record, account or document relating to

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beskikking oor die trustgoed betrekking het, by die Meester inlewer en moet na sy beste vermoë enige vraag wat die Meester in verband met die administrasie van en beskikking oor die trustgoed stel, eerlik en juis beantwoord.

(2) Die Meester kan, indien hy dit nodig ag, 'n ondersoek na die trustee se administrasie van en beskikking oor trustgoed deur 'n gesikte en bevoegde persoon 5 deur hom aangestel, laat instel.

(3) Die Meester gee die bevel wat hy goeddink in verband met die koste van 'n ondersoek in subartikel (2) bedoel.

Bewaring van dokumente

17. 'n Trustee mag nie voor die verstryking van 'n tydperk van vyf jaar vanaf die 10 beëindiging van 'n trust sonder die skriftelike toestemming van die Meester enige dokument wat as bewys van die belegging, veilige bewaring, beheer, administrasie, vervreemding of verdeling van trustgoed dien, vernietig nie.

Afskrifte van dokumente

18. Behoudens die bepalings van artikel 5 (2) van die Boedelwet, 1965 (Wet No. 15 66 van 1965), met betrekking tot die dokumente wat op die boedel van 'n oorlede persoon betrekking het, verstrek die Meester op skriftelike versoek en teen betaling van die voorgeskrewe gelde aan 'n trustee, sy borg of sy verteenwoordiger of enige ander persoon wat na die Meester se oordeel genoegsame belang by daardie dokument het, 'n gesertifiseerde afskrif van enige dokument onder sy beheer wat op 20 trustgoed betrekking het.

Versuim deur trustee om rekenskap te gee of om pligte te verrig

19. Indien 'n trustee versuim aan 'n versoek van die Meester ingevolge artikel 16 te voldoen of om enige plig in die trustdokument of regtens hom opgelê, te verrig, kan die Meester of iemand wat 'n belang by die trustgoed het, by die hof aansoek 25 doen om 'n bevel wat die trustee gelas om aan sodanige versoek te voldoen of om sodanige plig te verrig.

Ontheffing van trustee

20. (1) 'n Trustee kan te eniger tyd op aansoek van die Meester of iemand wat 'n belang by die trustgoed het deur die hof van sy amp onthef word indien die hof 30 oortuig is dat sodanige ontheffing in die belang van die trust en sy bevoordeeldes sal wees.

(2) 'n Trustee kan te eniger tyd deur die Meester van sy amp onthef word—

- (a) indien hy in die Republiek of elders skuldig bevind is aan 'n misdryf waarvan oneerlikheid 'n element is of aan 'n ander misdryf waarvoor hy tot 35 gevengenisstraf sonder die keuse van 'n boete gevonnis is; of
- (b) indien hy versuim om binne twee maande nadat hy daartoe versoek is, of binne daardie verdere tydperk wat die Meester toelaat, tot tevredenheid van die Meester sekerheid of bykomende sekerheid, na gelang van die geval, te stel; of
- (c) indien sy boedel gesekwestreer of gelikwider of onder geregtelike bestuur geplaas word; of
- (d) indien hy deur 'n bevoegde hof geestesongesteld verklaar is of onbevoeg verklaar is om sy eie sake te behartig of indien hy uit hoofde van die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973), aangehou word as 'n 45 pasiënt in 'n inrigting of as 'n Presidentspasiënt; of
- (e) indien hy versuim om 'n plig wat hom by of kragtens hierdie Wet opgelê is bevredigend te verrig of om aan 'n wettige versoek van die Meester te voldoen.

(3) Indien 'n trustee wat kragtens artikel 6 (1) gemagtig is om op te tree, van sy 50 amp onthef word of bedank, moet hy onverwyld sy skriftelike magtiging aan die Meester terugbesorg.

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his administration or disposal of the trust property and shall to the best of his ability answer honestly and truthfully any question put to him by the Master in connection with the administration and disposal of the trust property.

(2) The Master may, if he deems it necessary, cause an investigation to be carried out by some fit and proper person appointed by him into the trustee's administration and disposal of trust property.

(3) The Master shall make such order as he deems fit in connection with the costs of an investigation referred to in subsection (2).

Custody of documents

10 17. A trustee shall not without the written consent of the Master destroy any document which serves as proof of the investment, safe custody, control, administration, alienation or distribution of trust property before the expiry of a period of five years from the termination of a trust.

Copies of documents

15 18. Subject to the provisions of section 5 (2) of the Administration of Estates Act, 1965 (Act No. 66 of 1965), regarding the documents in connection with the estate of a deceased person, the Master shall upon written request and payment of the prescribed fee furnish a certified copy of any document under his control relating to trust property to a trustee, his surety or his representative or any other person who 20 in the opinion of the Master has sufficient interest in such document.

Failure by trustee to account or perform duties

19. If any trustee fails to comply with a request by the Master in terms of section 16 or to perform any duty imposed upon him by the trust instrument or by law, the Master or any person having an interest in the trust property may apply to the court 25 for an order directing the trustee to comply with such request or to perform such duty.

Removal of trustee

20. (1) A trustee may, on the application of the Master or any person having an interest in the trust property, at any time be removed from his office by the court if 30 the court is satisfied that such removal will be in the interests of the trust and its beneficiaries.

- (2) A trustee may at any time be removed from his office by the Master—
- (a) if he has been convicted in the Republic or elsewhere of any offence of which dishonesty is an element or of any other offence for which he has been sentenced to imprisonment without the option of a fine; or
 - (b) if he fails to give security or additional security, as the case may be, to the satisfaction of the Master within two months after having been requested thereto or within such further period as is allowed by the Master; or
 - (c) if his estate is sequestrated or liquidated or placed under judicial management; or
 - (d) if he has been declared by a competent court to be mentally ill or incapable of managing his own affairs or if he is by virtue of the Mental Health Act, 1973 (Act No. 18 of 1973), detained as a patient in an institution or as a President's patient; or
 - (e) if he fails to perform satisfactorily any duty imposed upon him by or under this Act or to comply with any lawful request of the Master.
- (3) If a trustee authorized to act under section 6 (1) is removed from his office or resigns, he shall without delay return his written authority to the Master.

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Bedanking deur trustee

21. Ongeag of die trustdokument vir die bedanking van die trustee voorsiening maak al dan nie, kan die trustee bedank deur die Meester en die trustbevoordeeldes wat bepaal enregsbevoeg is, of die voogde of kurators van die trustbevoordeeldes onder voogdy of kuratele, skriftelik kennis van sy bedanking te gee. 5

Vergoeding van trustee

22. 'n Trustee is ten opsigte van die verrigting van sy ampspligte geregtig op daardie vergoeding waarvoor in die trustdokument voorsiening gemaak is of, by gebrek aan sodanige voorsiening, op 'n billike vergoeding, wat in die geval van enige dispuut deur die Meester vasgestel word. 10

Toegang tot hof

23. Iemand wat hom veronreg voel deur 'n magtiging, aanstelling of ontheffing van 'n trustee deur die Meester of deur enige beslissing, lasgewing of voorskrif van die Meester kragtens hierdie Wet gegee of uitgereik, kan by die hof aansoek doen om regshulp, en die hof het die bevoegdheid om die meriete van so 'n aangeleentheid te 15 oorweeg, om getuenis aan te hoor en om 'n bevel te gee wat hy goeddink.

Regulasies

24. Die Minister van Justisie kan regulasies uitvaardig betreffende enige aangeleentheid wat ingevolge hierdie Wet voorgeskry moet of kan word. 20

Toepassing van Wet

25. Hierdie Wet is nie van toepassing nie op 'n trust wat deur 'n ander Wet van die toepassing van die Trustgelde Beskermings Wet, 1934 (Wet No. 34 van 1934), vrygestel is of op 'n skema ingevolge die Wet op Deelnemingsverbande, 1981 (Wet No. 55 van 1981).

Wysiging of herroeping van wette, en voorbehoud

25

26. (1) Die wette in die Bylae genoem, word hierby gewysig of herroep in die mate aangedui in die derde kolom daarvan.

(2) Enigets wat gedoen is kragtens 'n bepaling van 'n wet wat by subartikel (1) herroep is en kragtens 'n ooreenstemmende bepaling van hierdie Wet gedoen kan word, word geag kragtens daardie ooreenstemmende bepaling gedoen te wees. 30

Kort titel en inwerkingtreding

27. Hierdie Wet heet die Wet op die Beheer oor Trustgoed, 1988, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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Resignation by trustee

21. Whether or not the trust instrument provides for the trustee's resignation, the trustee may resign by notice in writing to the Master and the ascertained beneficiaries who have legal capacity, or to the tutors or curators of the beneficiaries of the trust under tutorship or curatorship.

Remuneration of trustee

22. A trustee shall in respect of the execution of his official duties be entitled to such remuneration as provided for in the trust instrument or, where no such provision is made, to a reasonable remuneration, which shall in the event of a dispute be fixed by the Master.

Access to court

23. Any person who feels aggrieved by an authorization, appointment or removal of a trustee by the Master or by any decision, order or direction of the Master made or issued under this Act, may apply to the court for relief, and the court shall have the power to consider the merits of any such matter, to take evidence and to make any order it deems fit.

Regulations

24. The Minister of Justice may make regulations regarding any matter which in terms of this Act is required or permitted to be prescribed.

20 Application of Act

25. This Act shall not apply to a trust which has been exempted by any other Act from the application of the Trust Moneys Protection Act, 1934 (Act No. 34 of 1934), or to a scheme in terms of the Participation Bonds Act, 1981 (Act No. 55 of 1981).

Amendment or repeal of laws, and savings

26. (1) The laws mentioned in the Schedule are hereby repealed or amended to the extent indicated in the third column thereof.
(2) Anything done under any provision of any law repealed by subsection (1) which may be done under a corresponding provision of this Act, shall be deemed to have been done under that corresponding provision.

30 Short title and commencement

27. This Act shall be called the Trust Property Control Act, 1988, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.

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Bylae

BEPALINGS VAN WETTE GEWYSIG OF HERROEP (ARTIKEL 26)

No. en jaar van wet	Kort titel	Omvang van wysiging of herroeping
Wet No. 34 van 1934	Trustgelde Beskermings Wet, 1934	Die herroeping van die geheel.
Wet No. 19 van 1941	Toelating van Prokureurs Wysigings- en Regspraktisyns-getrouheidsfonds-wet, 1941	<p>Die vervanging van artikel 5 deur die volgende artikel:</p> <p>"Verpligtig op eksekuteurs, ens., om sekuriteit te verskaf waarvan nie afgesien kan word nie</p> <p>5. Van die verpligtig om sekuriteit te verskaf, deur enige wet op eksekuteurs, [administrateurs] voogde, kurators of trustees by insolvensie gelê, kan nie afgesien word nie, tensy die akte waarin hulle benoem word uitdruklik gelas dat van sodanige sekuriteit afgesien moet word, of tensy 'n bevoegde provinsiale of plaaslike afdeling van die Hooggereghof by aansoek spesiale vrystelling daarvan verleen."</p>
Wet No. 66 van 1965	Boedelwet, 1965	<p>1. Die wysiging van artikel 1—</p> <p>(a) deur die omskrywings van "administrateur", "administrateursbrief" en "rekenmeester" te skrap; en</p> <p>(b) deur die volgende omskrywing na die omskrywing van "taksateur" in te voeg: <i>"trustee" 'n trustee soos omskryf in artikel 1 van die Wet op die Beheer oor Trustgoed, 1988;"</i></p> <p>2. Die wysiging van artikel 4—</p> <p>(a) deur in subartikel (1) die woorde wat die voorbehoudbepaling voorafgaan deur die volgende woorde te vervang: <i>"Ten opsigte van die boedel van 'n oorledene of van enige gedeelte daarvan [of van goed wat deur 'n oorledene vir die in artikel 57 gemelde doel onder enige persoon se beheer gestel is] berus die regsvvoegheid—</i></p> <p>(a) in die geval van 'n oorledene wat ten tyde van sy dood sy gewone verblyf binne die regsgebied van 'n provinsiale afdeling van die Hooggereghof gehad het, by die Meester wat ten opsigte van daardie gebied aangestel is; en</p> <p>(b) in die geval van 'n oorledene wat nie ten tyde van sy dood aldus sy verblyf gehad het nie, by die Meester by wie aansoek gedoen word om die uitreiking van 'n eksekuteursbrief [of 'n administrateursbrief] of om die ondertekening onder ampseël van so 'n brief wat reeds ten opsigte van die betrokke boedel [of goed] uitgereik is;" en</p> <p>(b) deur in subartikel (4) die woord "administrateursbrief" te skrap.</p> <p>3. Die wysiging van artikel 5 deur die voorbehoudbepaling by subartikel (2) deur die volgende voorbehoudbepaling te vervang: <i>"Met dien verstande dat—</i></p> <p>(a) 'n eksekuteur, [administrateur] trustee, voog of kurator, of sy borg, so 'n stuk gratis kan insien of laat insien [en</p> <p>(b) in die geval van 'n stuk deur 'n administrateur ingevolge artikel 65 ingelewer, die reg tot insien en tot die maak of verkryging van 'n afskrif of uittreksel beperk is tot die administrateur, sy borg en die betrokke bevoordeeldes, of die verteenwoordiger van die administrateur of van so 'n borg of bevoordeeldel]."'</p> <p>4. Die wysiging van artikel 40—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang: <i>"(1) Indien 'n [administrateur] trustee aangestel is om enige goed van 'n oorledene ingevolge sy testament te administreer (met inbegrip van, in die geval van 'n saamgevoegde boedel, enige goed wat deel uitmaak van die langslewende of orlewendes se aandeel in daardie boedel wat volgens 'n distribusierkening deur so 'n [administrateur]</i></p>

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Schedule

PROVISIONS OF LAWS AMENDED OR REPEALED (SECTION 26)

No. and year of law	Short title	Extent of amendment or repeal
Act No. 34 of 1934	Trust Money Protection Act, 1934	The repeal of the whole.
Act No. 19 of 1941	Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941	The substitution for section 5 of the following section: "Obligation upon executors, etc., to provide security incapable of being waived 5. The obligation to provide security imposed by any law upon executors, [administrators] tutors, curators or trustees in insolvency, shall not be capable of being waived unless the instrument by which they are nominated expressly directs that such security shall be dispensed with or unless a provincial or local division of the Supreme Court of competent jurisdiction on application grants special exemption therefrom.".
Act No. 66 of 1965	Administration of Estates Act, 1965	<p>1. The amendment of section 1—</p> <ul style="list-style-type: none"> (a) by the deletion of the definitions of "accountant", "administrator" and "letters of administratorship"; and (b) by the insertion of the following definition after the definition of "territory": "trustee" means a trustee as defined in section 1 of the Trust Property Control Act, 1988;". <p>2. The amendment of section 4—</p> <ul style="list-style-type: none"> (a) by the substitution in subsection (1) for the words preceding the proviso of the following words: "In respect of the estate of a deceased person, or of any portion thereof, [or of any property given under the control of any person by a deceased person for the purpose mentioned in section 57] jurisdiction shall lie— (a) in the case of a deceased person who was, at the date of his death, ordinarily resident within the area of jurisdiction of a provincial division of the Supreme Court, with the Master appointed in respect of that area; and (b) in the case of a deceased person who was not at that date so resident, with the Master to whom application is made to grant letters of executorship [or letters of administratorship] or to sign and seal any such letters already granted in respect of the estate [or property] concerned;"; and (b) by the deletion in subsection (4) of the word "administratorship". <p>3. The amendment of section 5 by the substitution for the proviso to subsection (2) of the following proviso:</p> <p style="padding-left: 2em;">"Provided that— (a) any executor, [administrator] trustee, tutor or curator, or his surety, may inspect any such document or cause it to be inspected without payment of any fee [and (b) in the case of a document lodged by an administrator in terms of section 65, the right to inspect and to make or obtain a copy or extract shall be limited to the administrator, his surety and the beneficiaries concerned, or the representative of the administrator or of any such surety or beneficiary].".</p> <p>4. The amendment of section 40—</p> <ul style="list-style-type: none"> (a) by the substitution for subsection (1) of the following subsection: "(1) If [an administrator] a trustee has been appointed to administer any property of a deceased person under his will (including in the case of a massed estate any property forming part of the share of the survivor or survivors of that estate which, according to a distribution account, is to be

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		<p>trustee gadministreer moet word), moet die eksekuteur—</p> <p>(a) aan die [Administrator] trustee die roerende goed oorhandig wat volgens die distribusierekening aan hom oorhandig behoort te word;</p> <p>(b) die bepaling van die testament, of 'n verwysing daarna, vir sover dit op die administrasie betrekking het, teen die titelbewyse van die goed wat onfoerend is, en teen enige verband (met inbegrip van 'n notariële verband) wat deel van die goed uitmaak, laat aanteken, en behourens die bepaling van artikel 41 (2), die titelbewyse en enige sodanige verband aan die [Administrator] trustee aflewer; en</p> <p>(c) die [Administrator] trustee se kwitansie vir bedoelde roerende goed, titelbewyse of verband, en 'n sertifikaat deur die betrokke registrasiebeampte of 'n transportbesorger dat bedoelde aantekening aldus aangebring is, by die Meester inlewer.”; en</p> <p>(b) deur subartikels (2) en (3) te skrap.</p> <p>5. Die herroeping van hoofstuk III.</p> <p>6. Die wysiging van artikels 95, 96, 98 en 99 deur die woord “administrator”, oral waar dit voorkom, te skrap.</p> <p>7. Die wysiging van artikel 101—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>“(1) ‘Deur die Meester gesertifiseerde afskrif van 'n eksekuteursbrief, [Administratorbrief] voogdybrief of brief van kuratele wat kragtens artikel 21 of kragtens daardie artikel gelees met artikel [62 of] 74 [na gelang van die geval] by hom ingelewer is, of van 'n afskrif van so 'n brief, is as bewys toelaatbaar asof dit die oorspronklike brief is.”;</p> <p>(b) deur paragraaf (b) van subartikel (2) te skrap; en</p> <p>(c) deur subartikel (3) deur die volgende subartikel te vervang:</p> <p>“(3) ‘Sertifikaat onder die handtekening van die Meester is <i>prima facie</i>-bewys van enige verlies in artikel 23 (5) [of in daardie sub-artikel soos deur artikel 63 (4) toegepas] of in artikel 77 (5) bedoel, en van enige waarde bedoel in artikel 35 (1) of in artikel 46 of in laasgenoemde artikel soos toegepas deur [artikel 70 of deur] artikel 85.”.</p> <p>8. Die wysiging van artikel 102—</p> <p>(a) deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(f) as eksekuteur [of administrator] opsetlik enige boedel [of goed] anders as ooreenkomsdig die bepaling van artikel 35 (12) of van die betrokke testament [of inter vivos geldende geskrif] verdeel; of”;</p> <p>(b) deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(g) die bepaling van artikel 9 (1) of (3), 13, 27 (1), [of van laasgenoemde artikel soos toegepas deur artikel 70 (2), artikel] 35 (13), 47, [57, 65 (1)] 71, 78, 83, 93 (1) of (3), of 'n kennisgewing kragtens artikel 9 (2), [of 'n bevel kragtens artikel 58 (1)] oortree of versuim om daaraan te voldoen [of 'n rekenmeester wat deur die Meester ingevolge artikel 65 (1) (a) benoem is, in die uitvoering van sy plig hinder of dwarsboom]; of”;</p> <p>(c) deur paragraaf (h) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(h) die bepaling van artikel 6 (4), artikel 8 (1) of (2), artikel 11 (1), artikel 26 (1) of van laasgenoemde artikel soos toegepas deur artikel 85, artikel 28 (1), (2) of (3) of van laasgenoemde artikel soos toegepas deur artikel 12 (7) [of deur artikel 70 (1)] of deur artikel 85, artikel</p>

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		<p>administered by such [administrator] trustee), the executor shall—</p> <p>(a) deliver to the [administrator] trustee such of the movable property as should, according to the distribution account, be delivered to him;</p> <p>(b) cause the terms of the will, or a reference thereto, in so far as they relate to the administration, to be endorsed against the title deeds of such of the property as is immovable, and against any mortgage or notarial bond forming part of the property, and deliver the title deeds and any such bond, subject to the provisions of section 41 (2), to the [administrator] trustee; and</p> <p>(c) lodge with the Master the [administrator's] trustee's acquittance for any such movable property, deeds or bond, and a certificate by the registration officer concerned or a conveyancer that such deeds or bond has been endorsed as aforesaid.”; and</p> <p>(b) by the deletion of subsections (2) and (3).</p> <p>5. The repeal of chapter III.</p> <p>6. The amendment of sections 95, 96, 98 and 99 by the deletion of the word “administrator”, wherever it occurs.</p> <p>7. The amendment of section 101—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) A copy certified by the Master of any letters of executorship, [administratorship] tutorship or curatorship lodged with him under section 21, or under the said section read with section [62 or] 74, [as the case may be] or of a copy of any such letters, shall be admissible in evidence as if it were the original letters.”;</p> <p>(b) by the deletion of paragraph (b) of subsection (2); and</p> <p>(c) by the substitution for subsection (3) of the following subsection:</p> <p>“(3) A certificate under the hand of the Master shall be <i>prima facie</i> proof of any loss referred to in section 23 (5) [or in the said subsection as applied by section 63 (4)] or in section 77 (5), and of any value referred to in section 35 (1) or in section 46 or in the last-mentioned section as applied by section [70 or by section] 85.”.</p> <p>8. Amendment of section 102—</p> <p>(a) by the substitution for paragraph (f) of subsection (1) of the following paragraph:</p> <p>“(f) being an executor [or administrator], willfully distributes any estate [or property] otherwise than in accordance with the provisions of section 35 (12), or of the relevant will [or written instrument operating <i>inter vivos</i>]; or”;</p> <p>(b) by the substitution for paragraph (g) of subsection (1) of the following paragraph:</p> <p>“(g) contravenes or fails to comply with the provisions of section 9 (1) or (3), 13, 27 (1) [or of the last-mentioned section as applied by section 70 (2), section], 35 (13), 47, [57, 65 (1)] 71, 78, 83, 93 (1) or (3), or with any notice under section 9 (2) [or any order under section 58 (1), or hinders or obstructs any accountant nominated by the Master in terms of section 65 (1) (a) in the execution of his duty]; or”;</p> <p>(c) by the substitution for paragraph (h) of subsection (1) of the following paragraph:</p> <p>“(h) contravenes or fails to comply with the provisions of section 6 (4), section 8 (1) or (2), section 11 (1), section 26 (1) or of the last-mentioned section as applied by section 85, section 28 (1), (2) or (3) or of the last-mentioned section as applied by section 12 (7) [or by section 70]</p>

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WET OP DIE BEHEER OOR TRUSTGOED, 1988

No. en jaar van wet	Kort titel	Omvang van wysiging of herroeping
		<p>30, artikel 35 (1), of 'n lasgewing kragtens artikel 35 (2) of 'n kennisgewing kragtens artikel 43 (3) of (4) [of van laasgenoemde artikel soos toegepas deur artikel 66 (2)], oortree of versuim om daaraan te voldoen; of'; en</p> <p>(d) deur paragraaf (i) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>"(i) die bepalings van artikel 7 (1) of (2), artikel 35 (8), artikel 41 (1) [of van laasgenoemde artikel soos deur artikel 70 toegepas], artikel 54 (5) of van laasgenoemde artikel soos deur [artikel 70 (1) of deur] artikel 85 toegepas, of 'n kennisgewing kragtens artikel 7 (3) of 'n lasgewing kragtens artikel 28 (6) of van laasgenoemde artikel soos deur [artikel 70 (1) of deur] artikel 85 toegepas, oortree of versuim om daaraan te voldoen, of sonder redelike verontskuldiging versuim om aan 'n kennisgewing kragtens artikel 32 (1) (b) gevolg te gee, of, nadat hy ter voldoening aan so 'n kennisgewing verskyn het, weier om die eed af te lê of homself te laat ondervra of om volledig en op bevredigende wyse te antwoord op enige wettige vraag wat aan hom gestel word.".</p> <p>9. Die herroeping van artikel 108.</p> <p>10. Die vervanging van artikel 109 deur die volgende artikel:</p> <p>*Kort titel en inwerkingtreding</p> <p>109. [(1)] Hierdie Wet heet die Boedelwet, 1965, en tree [behoudens die bepalings van sub-artikel (2)] in werking op 'n datum wat die Staatspresident by proklamasie in die <i>Staatskoerant</i> bepaal."</p> <p>11. Die vervanging van die lang titel deur die volgende lang titel:</p> <p style="text-align: center;">"WET</p> <p>Tot samevatting en wysiging van die wetsbepalings met betrekking tot die beredding en verdeling van die boedels van afgestorwe persone, die administrasie [van trustgoedere wat deur 'n afgestorwe persoon onder beheer van enige persoon gestel is, en] van die goed van minderjariges en persone onder kuratele, en van verlate boedels; tot reëling van die regte van bevoordeeldes ingevolge mutuele testamente gemaak deur twee of meer persone; tot wysiging van die Wet op Geestesgebreken, 1916; en om voorsiening te maak vir bykomstige aangeleenthede."</p> <p>Die wysiging van artikel 8 deur paragraaf (a) van die voorbehoudbepaling by subartikel (1) deur die volgende paragraaf te vervang:</p> <p>"(a) enige inligting deur die registrateur verkry in die loop van 'n ondersoek kragtens hierdie Wet of uit 'n verslag van 'n inspekteur—</p> <p><u>(i) deur die registrateur of sy personeel gebruik kan word in verband met enige finansiële instelling, persoon, vennootskap of maatskappy; en</u></p> <p><u>(ii) deur die registrateur na goeddunke aan die Meester van die Hooggereghof oorgedra kan word; en".</u></p>
Wet No. 38 van 1984	Wet op Inspeksie van Finansiële Instellings, 1984	

TRUST PROPERTY CONTROL ACT, 1988

Act No. 57, 1988

No. and year of law	Short title	Extent of amendment or repeal
Act No. 38 of 1984	Inspection of Financial Institutions Act, 1984	<p>(1) or by section 85, section 30, section 35 (1), or with any direction under section 35 (2) or any notice under section 43 (3) or (4) [or of the last-mentioned section as applied by section 66 (2)]; or"; and</p> <p>(d) by the substitution for paragraph (i) of subsection (1) of the following paragraph:</p> <p>"(i) contravenes or fails to comply with the provisions of sections 7 (1) or (2), section 35 (8), section 41 (1) [or the last-mentioned section as applied by section 70], section 54 (5) or of the last-mentioned section as applied by [section 70 (1) or by] section 85, or with any notice under section 7 (3) or any direction under section 28 (6) or of the last-mentioned section as applied by [section 70 (1) or by] section 85, or fails without reasonable excuse to comply with a notice under section 32 (1) (b), or, having appeared in answer to such notice, refuses to take the oath or to submit to examination or to answer fully and satisfactorily any lawful question put to him.".</p> <p>9. The repeal of section 108.</p> <p>10. The substitution for section 109 of the following section:</p> <p style="padding-left: 2em;">"Short title and commencement 109. [(1)] This Act shall be called the Administration of Estates Act, 1965, and shall [subject to the provisions of subsection (2)] come into operation upon a date to be fixed by the State President by proclamation in the <i>Gazette</i>."</p> <p>11. The substitution for the long title of the following long title:</p> <p style="text-align: center;">"ACT</p> <p>To consolidate and amend the law relating to the liquidation and distribution of the estates of deceased persons, the administration [of trust property given under the control of any person by a deceased person, and] of the property of minors and persons under curatorship, and of derelict estates; to regulate the rights of beneficiaries under mutual wills made by any two or more persons; to amend the Mental Disorders Act, 1916; and to provide for incidental matters."</p> <p>The amendment of section 8 by the substitution for paragraph (a) of the proviso to subsection (1) of the following paragraph:</p> <p>"(a) any information obtained by the registrar in the course of an inspection under this Act or from a report by an inspector—</p> <p class="list-item-l1">(i) may be used by the registrar or his staff in connection with any financial institution, person, partnership or company; and</p> <p class="list-item-l1">(ii) may at the discretion of the registrar be conveyed to the Master of the Supreme Court; and".</p>

