



# GOVERNMENT GAZETTE

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No. 13111

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 659.

28 March 1991

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

No. 6 of 1991: Insolvency Amendment Act, 1991.

No. 659.

28 Maart 1991

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

No. 6 van 1991: Insolvensiewysigingswet, 1991.

Act No. 6, 1991

INSOLVENCY AMENDMENT ACT, 1991

## GENERAL EXPLANATORY NOTE:

**[**                      **]** Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the Insolvency Act, 1936, so as to further regulate the publication of a notice in terms of section 34 of the said Act; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)*  
*(Assented to 18 March 1991.)*

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

Amendment of section 34 of Act 24 of 1936, as amended by section 12 of Act 32 of 1952, section 2 of Act 101 of 1983 and section 2 of Act 27 of 1987

1. Section 34 of the Insolvency Act, 1936, is hereby amended— 5
  - (a) by the substitution for subsection (1) of the following subsection:
 

“(1) If a trader **[disposes of]** transfers in terms of a contract any business belonging to him, or the goodwill of such business, or any goods or property forming part thereof (except in the ordinary course of that business or for securing the payment of a debt), and such trader **[does not publish]** has not published a notice of such intended **[disposition]** transfer in the *Gazette*, and in two issues of an Afrikaans and two issues of an English newspaper circulating in the district in which that business is carried on, within a period not less than thirty days and not more than sixty days before the date of such **[disposition]** transfer, the said **[disposition]** transfer 10  
shall be void as against his creditors for a period of six months after such **[disposition]** transfer, and shall be void against the trustee of his estate, if his estate is sequestrated at any time within the said period.”;
  - (b) by the substitution for subsection (3) of the following subsection:
 

“(3) If any person who has any claim against the said trader in connection 20  
with the said business, has before such **[disposition]** transfer, for the purpose of enforcing his claim, instituted proceedings against the said trader—

    - (a) in any court of law, and the person to whom the said business was **[disposed of]** transferred knew at the time of the **[disposition]** transfer 25  
that those proceedings had been instituted; or
    - (b) in a Division of the Supreme Court having jurisdiction in the district in which the said business is carried on or in the magistrate's court of that district,

the **[disposition]** transfer shall be void as against him for the purpose of such 30  
enforcement.”; and

**Act No. 6, 1991****INSOLVENCY AMENDMENT ACT, 1991**

(c) by the addition of the following subsection:

“(4) For the purposes of this section ‘transfer’, when used as a noun, includes actual or constructive transfer of possession, and, when used as a verb, has a corresponding meaning.”.

**Short title**

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2. This Act shall be called the Insolvency Amendment Act, 1991.