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OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 527.

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11 Maart 1987

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

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

No. 23 of 1987: Currency and Exchanges Amendment Act, 1987.

No. 23 van 1987: Wysigingswet op Betaalmiddels en Wisselkoerse, 1987.

Act No. 23, 1987

CURRENCY AND EXCHANGES AMENDMENT ACT, 1987

GENERAL EXPLANATORY NOTE:

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Currency and Exchanges Act, 1933, so as to provide for the blocking, attachment, interdicting, forfeiture and disposal of certain money or goods; to validate certain acts by the Treasury; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 2 March 1987.)*

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

Amendment of section 9 of Act 9 of 1933, as amended by section 6 of Act 27 of 1940, section 17 of Act 43 of 1941 and section 26 of Act 36 of 1950.

1. (1) Section 9 of the Currency and Exchanges Act, 1933, is hereby amended by the addition to subsection (2) of the following paragraphs, the existing subsection becoming paragraph (a): 5

“(b) Any regulation contemplated in paragraph (a) may provide for—

(i) the blocking, attachment and obtaining of interdicts for a period not exceeding 12 months by the Treasury and the forfeiture and disposal by the Treasury of any money or goods referred to or defined in the regulations or determined in terms of the regulations or any money or goods into which such money or goods have been transformed by any person, and— 10 15

(aa) which are suspected by the Treasury on reasonable grounds to be involved in an offence or suspected offence against any regulation referred to in this section, or in respect of which such offence has been committed or so suspected to have been committed; 20

(bb) which are in the possession of the offender, suspected offender or any other person or have been obtained by any such person or are due to any such person and which would not have been in such possession or so obtained or due if such offence or suspected offence had not been committed; or 25

(cc) by which the offender, suspected offender or any other person has been benefited or enriched as a result of such offence or suspected offence: 30

Provided that, in the case of any person other than the offender or suspected offender, no such money or goods shall be blocked, attached, interdicted, forfeited and disposed of if such money or goods 35

were acquired by such person *bona fide* for reasonable consideration as a result of a transaction in the ordinary course of business and not in contravention of the regulations; and

(ii) in general, any matter which the State President deems necessary for the fulfilment of the objectives and purposes referred to in subparagraph (i), including the blocking, attachment, interdicting, forfeiture and disposal referred to in subparagraph (i) by the Treasury of any other money or goods belonging to the offender, suspected offender or any other person in order to recover an amount equal to the value of the money or goods recoverable in terms of the regulations referred to in subparagraph (i), but which can for any reason not be so recovered.

(c) Any regulation contemplated in paragraph (a) may authorize any person who is vested with any power or who shall fulfil any duty in terms of the regulation, to delegate such power or to assign such duty, as the case may be, to any other person.

(d) Any regulation contemplated in paragraph (a) shall provide—

(i) that any person who feels aggrieved by any decision made or action taken by any person in the exercise of his powers under a regulation referred to in paragraph (b) which has the effect of blocking, attaching or interdicting any money or goods, may lodge an application in a competent court for the revision of such decision or action or for any other relief, and the court shall not set aside such decision or action or grant such other relief unless it is satisfied—

(aa) that the person who made such decision or took such action did not act in accordance with the relevant provisions of the regulation; or

(bb) that such person did not have reasonable grounds to make such decision or to take such action; or

(cc) that such grounds for the making of such decision or the taking of such action no longer exist;

(ii) that the Treasury shall cause a notice to be published in the *Gazette* of any decision to forfeit and dispose of any money or goods blocked, attached or interdicted in terms of the regulations referred to in paragraph (b), and that a notice of such decision shall be sent simultaneously with publication thereof in the *Gazette* by registered mail to any person who is, according to the Treasury, affected by such decision or, if no address of such person is available, that such notice shall be so sent to the last known address of such person; and

(iii) that any person who feels aggrieved by any decision to forfeit and dispose of such money or goods may, within a period prescribed by the regulations, which shall not be less than 90 days after the date of the notice published in the *Gazette* and referred to in subparagraph (ii), institute legal proceedings in a competent court for the setting aside of such decision, and the court shall not set aside such decision unless it is satisfied—

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- (aa) that the person who made such decision did not act in accordance with the relevant provisions of the regulation; or
- (bb) that such person did not have grounds to make such decision; or
- (cc) that the grounds for the making of such decision no longer exist.

(e) Any regulation contemplated in paragraph (a) may be made with retrospective effect, and if so made, such regulations shall also apply to matters in respect of which legal proceedings have been instituted but have not been disposed of at the promulgation thereof.

(f) For the purposes of this subsection "Treasury" means the Minister of Finance or an officer in the Department of Finance who, by virtue of the division of work in that Department, deals with that matter on the authority of the Minister.

(2) Subsection (1) shall be deemed to have come into operation on 1 December 1961.

Validation of certain acts by Treasury.

2. Anything done by the Treasury until a date immediately prior to the promulgation of any regulation contemplated in paragraph (b) of section 9 (2) of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended by section 1 of this Act, and which could have been so done under any provision of a regulation referred to in that paragraph and which has not already been set aside by a court of law at the commencement of this Act, shall for all purposes be deemed to have been done in accordance with the provisions of the regulations promulgated under that paragraph: Provided that no person shall hereby be deprived of his right of revision or to institute legal proceedings on the grounds referred to in paragraph (d) (i) (bb) and (cc) or paragraph (d) (iii) (bb) or (cc), as the case may be, of the said section 9 (2), as amended by section 1 of this Act.

Short title and commencement.

3. This Act shall be called the Currency and Exchanges Amendment Act, 1987, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.