

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1396.

24 June 1987

No. 1396.

24 Junie 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 geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

—No. 27 of 1987: Insolvency Amendment Act, 1987.

No. 27 van 1987: Insolvensiewysigingswet, 1987.

Act No. 27, 1987

INSOLVENCY AMENDMENT ACT, 1987

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 amend the definition of "disposition"; to amend the English text of section 34; and to provide for the convening of a special meeting of creditors for the purpose of interrogating an insolvent; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 16 June 1987.)*

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

Amendment of section 2 of Act 24 of 1936, as amended by section 2 of Act 16 of 1943 and section 1 of Act 6 of 1972.

1. Section 2 of the Insolvency Act, 1936 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "disposition" of the following definition: 5

"'disposition' means any transfer or abandonment of rights to property and includes a sale, lease, mortgage, pledge, delivery, payment, release, compromise, donation or any contract therefor, but does not include a disposition in compliance with an order of the court; and 'dis- 10
pose' has a corresponding meaning;"

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

2. Section 34 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) If a trader **[alienates]** disposes of any business 15
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), and such trader does not publish a notice of such intended **[alienation]** disposition in the *Gazette*, and in two issues of an Afri- 20
kaans 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 **[alienation]** dis-
position, the said **[alienation]** disposition shall be void 25
as against his creditors for a period of six months after such **[alienation]** disposition, and shall be void against the trustee of his estate, if his estate is sequestrated at any time within the said period."; and

(b) by the substitution for subsection (3) of the following 30
subsection:

"(3) If any person who has any claim against the said trader in connection with the said business, has before such **[alienation]** disposition, for the purpose of enforc-

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ing his claim, instituted proceedings against the said trader—

- (a) in any court of law, and the person to whom the said business was **[alienated]** disposed of knew at the time of the **[alienation]** disposition 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 **[alienation]** disposition shall be void as against him for the purpose of such enforcement."

Amendment of section 42 of Act 24 of 1936, as substituted by section 3 of Act 6 of 1972.

3. Section 42 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

"(2) The trustee may at any time, and shall whenever he is thereto required by a creditor who has proved his claim against the estate, provided that the Master consents thereto, convene by notice in the *Gazette* a special meeting of creditors for the purpose of interrogating an insolvent; and at such interrogation the provisions of section 65 shall mutatis mutandis apply."

Short title.

4. This Act shall be called the Insolvency Amendment Act, 1987.