

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

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 909.

24 April 1985

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

—o. 49 of 1985: Trade Practices Amendment Act, 1985.

No. 909.

24 April 1985

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

No. 49 van 1985: Wysigingswet op Handelspraktyke, 1985.

Act No. 49, 1985

TRADE PRACTICES AMENDMENT ACT, 1985

**GENERAL EXPLANATORY NOTE:**

Words underlined with solid line indicate insertions in existing enactments.

**ACT**

To amend the Trade Practices Act, 1976, so as to define revolving schemes; to extend the additional powers of the Trade Practices Advisory Committee; to empower the Minister of Trade and Industry to declare certain trade practices to be revolving schemes; and to grant to the said Minister winding-up and sequestration powers in respect of such trade practices; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)  
(Assented to 12 April 1985.)*

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

Amendment of section 1 of Act 76 of 1976, as amended by section 1 of Act 78 of 1978 and section 1 of Act 55 of 1980.

1. Section 1 of the Trade Practices Act, 1976 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of "Minister" of the following definition: 5  
 "revolving scheme" means any scheme in which, in the opinion of the committee a method or practice, which contains a risk of financial loss for any or all of the participants in that scheme in the event of a decline in the participation in that scheme, is at any stage applied or 10 followed;"

Amendment of section 4C of Act 76 of 1976, as inserted by section 2 of Act 55 of 1980

2. Section 4C of the principal Act is hereby amended by the insertion after paragraph (a) of the following paragraph:  
 "(aA) where such matter relates to a trade practice, make a written recommendation to the Minister that the trade 15 practice be declared a revolving scheme;"

Insertion of section 15A in Act 76 of 1976.

3. The following section is hereby inserted in the principal Act after section 15:

"Declaration of revolving scheme and exercise of winding-up or sequestration power. 15A. (1) After receipt of a recommendation referred to in section 4C (aA), the Minister may— 20  
 (a) by notice in the *Gazette* declare the relevant trade practice to be a revolving scheme;  
 (b) subject to the provisions of subsection (2), by the same or a subsequent notice direct that any 25 business which is or was engaged in such trade practice, be wound up or that the estate of any person be sequestrated if he is or was so engaged as a shareholder or director of such business or as an owner of any business.

## Act No. 49, 1985

## TRADE PRACTICES AMENDMENT ACT, 1985

(2) The Minister shall in a notice whereby a winding-up or sequestration under subsection (1) (b) is directed—

(a) in respect of—

- (i) a business wound up under the said subsection, state the name and the registration number, if applicable, of such business and the place where its registered office or main place of business is situate; 5
- (ii) a person whose estate is sequestrated under the said subsection, state the name of such person, the trade name under which he carries on his business, if applicable, and the place where he resides or from where he carries on his business; 10 15
- (b) expressly state whether the winding-up or sequestration in question shall take place in terms of the provisions of the Companies Act, 1973 (Act No. 61 of 1973), the Close Corporations Act, 1984 (Act No. 69 of 1984), or the Insolvency Act, 1936 (Act No. 24 of 1936); and 20
- (c) indicate the court which has, under the Act in question, jurisdiction in respect of such business or person. 25

(3) Subject to the provisions of subsection (4), a notice referred to in subsection (2) shall, for the purposes of an Act stated therein, be deemed to be a final winding-up order or a final order of sequestration, as the case may be, or a copy thereof, made by the court indicated in the notice under the relevant Act in respect of the business or person concerned. 30

(4) No court shall have jurisdiction to—

- (a) pronounce upon the validity of a recommendation referred to in section 4C (aA) or a notice referred to in subsection (1) (a) or (b); 35
- (b) make an order whereby a winding-up order or an order of sequestration referred to in subsection (3) is stayed or set aside.”

Cessation of certain proceedings and prohibition of compromise.

4. When a notice is published whereby the winding-up of a company is directed under section 15A (1) (b) of the principal Act— 40

- (a) all proceedings in connection with the winding-up of that company which may be pending in any court in the Republic shall be stopped;
- (b) no steps in terms of section 311 of the Companies Act, 1973 (Act No. 61 of 1973), for the conclusion of a compromise between that company and its creditors shall be taken and any such steps already commenced shall not be proceeded with, 45

and the costs incidental to such proceedings or steps already commenced shall, unless the court concerned orders otherwise, be deemed to be part of the costs of the winding-up of that company in terms of the said notice. 50

Short title and commencement.

5. This Act shall be called the Trade Practices Amendment Act, 1985, and shall be deemed to have come into operation on 1 August 1984. 55