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GOVERNMENT GAZETTE

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KAAPSTAD, 28 MEI 1980

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1116.

28 May 1980.

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

No. 69 of 1980: State Trust Board Amendment Act, 1980.

No. 1116.

28 Mei 1980.

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

No. 69 van 1980: Wysigingswet op die Staatstrustraad, 1980.

STATE TRUST BOARD AMENDMENT ACT, 1980

Act No. 69, 1980

GENERAL EXPLANATORY NOTE:

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the State Trust Board Act, 1979, so as to delete the provision that the chairman of the State Trust Board shall be a full-time member of that board; to regulate in greater detail the registration of the transfer of affected shares to that board; to provide for the setting aside of such registration; to empower that board to conduct certain enquiries with a view to the achievement of its objects; to provide that all civil actions against that board shall be instituted before 1 March 1981 and that prior notice shall be given to that board of the institution of such actions; and to indemnify the members of that board and certain officers against liability for acts performed in good faith under the provisions of that Act; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 23 May 1980.)*

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

1. Section 2 of the State Trust Board Act, 1979 (hereinafter referred to as the principal Act), is hereby amended by the deletion of subsection (3). Amendment of section 2 of Act 88 of 1979.

2. Section 6 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (2) of the following paragraph: Amendment of section 6 of Act 88 of 1979.

- 10 “(c) (i) The secretary of a company shall upon the
production to him of a certificate issued by the
board to the effect that particular shares in that
company are affected shares, register in the register
of members of that company the transfer to the
15 board of those shares in accordance with section
133 of the Companies Act, 1973 (Act No. 61 of
1973), as if that certificate were a proper instrument
of transfer, as contemplated in that section, of those
20 shares, and shall give to the person in whose name such
shares have been registered written notice of such
registration, and upon such registration the board
shall, subject to the provisions of subparagraphs (ii)
and (iii), become a member of that company and shall,
25 as the holder of such shares, be entitled and obliged to
exercise all powers and to carry out all duties conferred
or imposed upon such holder by that Act.
- (ii) Any person who feels aggrieved at the registration
of the transfer of shares in terms of subparagraph
(i) may within a period of 30 days from the date of

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- that registration apply to the Transvaal Provincial Division of the Supreme Court for the setting aside of the registration, and that Division may make such order as in the circumstances it may deem just.
- 5 (iii) During the period referred to in subparagraph (ii) or, if an application mentioned in that subparagraph has been made, until such application has been finally disposed of, the board shall not be entitled to transfer any shares the transfer of which has
- 10 been registered in terms of this paragraph."

3. The following section is hereby inserted in the principal Act after section 6:

Insertion of
section 6A in
Act 88 of 1979.

- "Enquiry by board.
- 15 6A. (1) (a) The board may with a view to achieving its object referred to in section 4 conduct such enquiry as it may deem fit, and the board may summon any person who in its opinion may be able to give information which could enable the board to achieve that object, to appear before it and to give evidence or to produce any book, writing or matter which is in his possession or custody or under his control and which in the opinion of the board is relevant to the subject matter of the enquiry, and the board may examine any person so summoned and inspect and retain for a reasonable period any book, writing or matter so produced.
- 20 (b) In connection with the examination of any person summoned under this section or the production by such person of any book, writing or matter, the law relating to privilege as applicable to a person subpoenaed to give evidence or to produce any book, writing or matter before a court of law shall apply: Provided that such person may not refuse to answer any question put to him during such examination on the ground that the answer may tend to incriminate him.
- 25 (2) Any summons in terms of subsection (1) shall be in the form determined by the chairman of the board, shall be signed by the chairman and shall be served in the same manner as a subpoena of a witness in criminal proceedings in the Supreme Court.
- 30 (3) (a) Whenever the board deems it necessary it may direct any person summoned under this section to give his evidence on oath or after having made an affirmation.
- 35 (b) The person presiding at an enquiry conducted in terms of this section may administer the oath to or accept an affirmation from any person so summoned.
- 40 (4) Any person summoned under this section shall be entitled to be assisted by an advocate or attorney when he is examined.
- 45 (5) The chairman of the board or the person presiding at such enquiry, may designate any person to present evidence to the board, to examine any person summoned as a witness and to present an argument regarding the subject matter of the enquiry.
- 50 (6) Any evidence or argument at an enquiry in terms of this section shall be heard in public: Provided that the person presiding at the enquiry may direct that such evidence or argument shall be heard *in camera* if he is of the opinion that the publication thereof may obstruct the board in the performance of its functions or may prejudicially affect the proper performance of such functions or may endanger the safety of the State.
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(7) Any person summoned under this section shall be entitled to receive as witness fees from the Information Trust Account an amount equal to the amount which he would have received as witness fees if he had been summoned to attend at criminal proceedings in the Supreme Court, held at the place mentioned in the summons served upon him.

(8) Any person who—

(a) having been summoned to appear before the board to give evidence or to produce any book, writing or matter, without sufficient cause (the onus of proof whereof shall rest upon him) fails to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the inquiry or until he is excused by the person presiding at the enquiry from further attendance, or having attended, refuses to be sworn or to make affirmation as a witness after he has been required by the person so presiding to do so, or having been sworn or having made an affirmation, fails to answer fully and satisfactorily any question lawfully put to him, or fails to produce any book, writing or matter in his possession or custody or under his control which he has been summoned to produce;

(b) having been sworn or having made affirmation, gives false evidence before the board on any matter, knowing such evidence to be false or not knowing or believing it to be true,

shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.”.

4. Section 7 of the principal Act is hereby amended by the addition of the following subsection: Amendment of section 7 of Act 88 of 1979.

“(6) Any civil action against the board arising from liabilities of the State which were created or arose as contemplated in section 6 (1) shall be instituted before 1 March 1981, and written notice of any action as well as its cause shall be given to the board not less than one month before the institution thereof.”.

5. (1) The following section is hereby inserted in the principal Act after section 10: Insertion of section 10A in Act 88 of 1979.

45 “Indemnity. **10A.** A member of the board or any officer referred to in section 9 shall not be liable in respect of anything done *bona fide* under this Act.”.

(2) Subsection (1) shall be deemed to have come into operation on 19 June 1979.

6. This Act shall be called the State Trust Board Amendment Act, 1980. Short title.