



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1202.

14 June 1989

No. 1202.

14 Junie 1989

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. 89 of 1989: Insolvency Amendment Act, 1989.

No. 89 van 1989: Insolvensiewysigingswet, 1989.

Act No. 89, 1989

INSOLVENCY AMENDMENT ACT, 1989

## 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.
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## ACT

To amend the Insolvency Act, 1936, so as to further regulate the appointment of trustees; and to further regulate the interrogation of an insolvent or any other person at a meeting of creditors; and to provide for incidental matters.

*(English text signed by the State President.)*  
*(Assented to 1 June 1989.)*

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

**Amendment of section 56 of Act 24 of 1936, as amended by section 16 of Act 99 of 1965**

1. Section 56 of the Insolvency Act, 1936 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (4) of the following subsection: 5

“(4) When two trustees have been appointed or when the Master has appointed **[a co-trustee]** one or more co-trustees in terms of section 57 (5) **[both or all three]** all the trustees shall act jointly in performing their functions as trustees and each of them shall be jointly and severally liable for every act 10 performed by them jointly.”.

**Amendment of section 57 of Act 24 of 1936, as amended by section 17 of Act 99 of 1965**

2. Section 57 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) Whenever the Master considers it desirable, he may appoint **[a person]** 15 one or more persons not disqualified from holding the office of trustee who has given the security mentioned in section 56 (2) as a co-trustee or co-trustees, as the case may be, with the trustee or trustees of an insolvent estate.”.

**Amendment of section 65 of Act 24 of 1936, as amended by section 20 of Act 99 of 1965**

3. Section 65 of the principal Act is hereby amended— 20

(a) by the substitution for the last proviso to subsection (2) of the following proviso:

“and provided further that a person interrogated under subsection (1) shall not be entitled at such interrogation to refuse to answer any question upon the ground that the answer would tend to incriminate 25

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- him or upon the ground that he is to be tried on a criminal charge and may be prejudiced at such a trial by his answer.”; and
- (b) by the insertion after subsection (2) of the following subsection:
- “(2A) (a) Where any person gives evidence in terms of the provisions of this section and is obliged to answer questions which may incriminate him or, where he is to be tried on a criminal charge, may prejudice him at such trial, the presiding officer shall, notwithstanding the provisions of section 39 (6), order that such part of the proceedings be held *in camera* and that no information regarding such questions and answers may be published in any manner whatsoever.
- (b) No evidence regarding any questions and answers contemplated in paragraph (a) shall be admissible in any criminal proceedings, except in criminal proceedings where the person concerned stands trial on a charge relating to the administering or taking of an oath or the administering or making of an affirmation or the giving of false evidence or the making of a false statement in connection with such questions and answers, and in criminal proceedings contemplated in section 139 (1) relating to a failure to answer lawful questions fully and satisfactorily.
- (c) Any person who contravenes any provision of an order contemplated in paragraph (a), shall be guilty of an offence and liable on conviction to the penalty mentioned in subsection (5) of section 154 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).”;
- (c) by the substitution for subsection (5) of the following subsection:
- “(5) Any evidence given under this section shall, subject to the provisions of subsection (2A), be admissible in any proceedings instituted against the person who gave that evidence.”.

**Amendment of section 152 of Act 24 of 1936, as amended by section 46 of Act 99 of 1965**

4. Section 152 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:
- “(5) The provisions of subsection (2) of section 65 shall, subject to subsection (2A) of that section, *mutatis mutandis* apply in connection with the production of any book or document or with the interrogation of any person under the preceding provisions of this section.”.

**Application of Act**

5. The provisions of sections 1, 2, 3 and 4 shall also be applicable in respect of an estate which was sequestrated either provisionally or finally before the commencement of this Act.

**Short title and commencement**

6. (1) This Act shall be called the Insolvency Amendment Act, 1989, and shall, subject to subsection (2), come into operation on a date fixed by the State President by proclamation in the *Gazette*.
- (2) Different dates may be fixed in terms of subsection (1) in respect of different provisions of this Act.
- (3) A reference in this Act to the commencement of this Act shall be construed as a reference to the applicable date so determined.