



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Verkoopprijs • Selling price
(AVB uitgesluit/GST excluded)
Plaaslik **50c** Local
Buitelands 70c Other countries
Posvry • Post free

VOL. 273

KAAPSTAD, 9 MAART 1988

No. 11179

CAPE TOWN, 9 MARCH 1988

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 446.

9 Maart 1988

No. 446.

9 March 1988

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

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

No. 5 van 1988: Wysigingswet op die Immunitete van Vreemde State, 1988.

No. 5 of 1988: Foreign States Immunities Amendment Act, 1988.

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 Foreign States Immunities Act, 1981, so as to confirm the immunity of foreign states from the jurisdiction of the courts of the Republic; and to remove certain ambiguities; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 3 March 1988.)*

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

Amendment of section 2 of Act 87 of 1981

1. Section 2 of the Foreign States Immunities Act, 1981 (hereinafter referred to as the principal Act), is hereby amended by the addition of the following subsection:
- “(4) The exceptions to the immunity of foreign states from the jurisdiction of the courts of the Republic provided for in this Act shall not apply in disputes in which all the parties are sovereign states.”

Amendment of section 9 of Act 87 of 1981

- 10 2. Section 9 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) has members that are not **[foreign]** states; and”

Amendment of section 10 of Act 87 of 1981

- 15 3. Section 10 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:
- “(b) the parties to the arbitration agreement are **[foreign]** states.”

Amendment of section 13 of Act 87 of 1981

- 20 4. Section 13 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- 25 “(1) Any process or other document required to be served for instituting proceedings against a foreign state shall be served by **[being transmitted]** delivering it through the Department of Foreign Affairs **[and Information]** of the Republic to the ministry of foreign affairs of the foreign state, or by making it available in any other manner to the foreign state in accordance with an agreement to which the Republic and that foreign state are parties,

FOREIGN STATES IMMUNITIES AMENDMENT ACT, 1988

Act No. 5, 1988

and service shall be deemed to have been effected when the process or other document is **[received at]** delivered to that ministry or made available to the foreign state, as the case may be.”;

(b) by the substitution for subsection (2) of the following subsection:

5 “(2) Any time prescribed by rules of court or otherwise for notice of intention to defend or oppose or entering an appearance shall begin to run two months after the date on which the process or document is **[received]** served as aforesaid.”; and

(c) by the substitution for subsection (5) of the following subsection:

10 “(5) A copy of any default judgment against a foreign state shall be **[transmitted]** delivered through the Department of Foreign Affairs [and Information] of the Republic to the ministry of foreign affairs of the foreign state, or made available to the foreign state in accordance with an agreement to which the Republic and that foreign state are parties, and any
15 time prescribed by rules of court or otherwise for applying to have the judgment set aside shall begin to run two months after the date on which the copy of the judgment is **[received at]** delivered to that ministry or made available to the foreign state, as the case may be.”.

Amendment of section 14 of Act 87 of 1981

20 5. Section 14 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) the property or any right or interest of a foreign state shall not be subject to any process—

- 25 (i) for its attachment in order to found or to confirm jurisdiction;
(ii) for the enforcement of a judgment or an arbitration award; or
(iii) in an action *in rem*, for its attachment or sale.”.

Amendment of section 17 of Act 87 of 1981

6. Section 17 of the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of the following words:

30 “17. A certificate by or on behalf of the Minister of Foreign Affairs **[and Information]** shall be conclusive evidence on any question—”; and

(b) by the substitution for paragraph (d) of the following paragraph:

35 “(d) whether, and if so when, any document has been **[served]** delivered or **[received]** made available as contemplated in section 13 (1) or (5).”.

Short title and commencement

7. This Act shall be called the Foreign States Immunities Amendment Act, 1988, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.