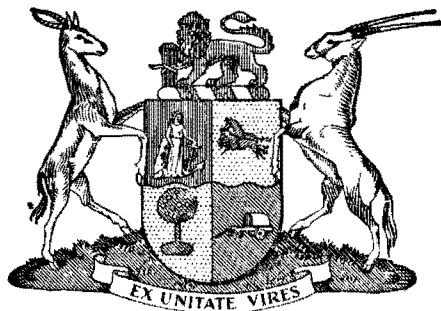


EXTRAORDINARY



BUITENGEWONE

THE UNION OF SOUTH AFRICA

Government Gazette

Staatskoerant

VAN DIE UNIE VAN SUID-AFRIKA

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**CAPE TOWN, 19TH APRIL, 1943.
KAAPSTAD, 19 APRIL 1943.**

PRYS 6d. [No. 3180.

OFFICE OF THE PRIME MINISTER.

The following Government Notice is published for general information:—

No. 750.] [19th April, 1943.

It is notified that His Excellency the Officer Administering the Government has been pleased to assent to the following Acts, which are hereby published for general information:—

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KANTOOR VAN DIE EERSTE MINISTER.

Onderstaande Goewermentskennisgewing word ter algemene inligting gepubliseer.

No. 750.] [19 April 1943.

Hierby word bekendgemaak dat dit Sy Eksellensie die Amptenaar Belas met die Uitoefening van die Uitvoerende Gesag behaag het om sy goedkeuring te heg aan onderstaande wette, wat hierby, ter algemene inligting, gepubliseer word:—

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No. 15, 1943.]

ACT**To suspend certain provisions of the Criminal Procedure and Evidence Act, 1917.***(Signed by the Officer Administering the Government in English.)**(Assented to 6th April, 1943.)*

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Suspension of provisions of section 172 of Act 31 of 1917, as amended by section 28 of Act 46 of 1935.

1. (1) The provisions of section *one hundred and seventy-two* of the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), are hereby suspended until the first day of the month notified under sub-section (2).

(2) The Governor-General may, by proclamation in the *Gazette*, notify the month of the year (which shall be not later than the second year after the year in which the Union has, according to the proclamation by the Governor-General in terms of section *seven* of the War Measures Act, 1940 (Act No. 13 of 1940), ceased to be at war) as from which the provisions of the said section *one hundred and seventy-two* shall again come into operation, and thereupon the reference in the last mentioned section to the month of January and the year 1936, shall be deemed to be a reference to the month and year so notified.

Short title.

2. This Act shall be called the Jury Lists Suspension Act, 1943.

No. 17, 1943.]

ACT**To apply the Matrimonial Causes Jurisdiction Act, 1939, to the Mandated Territory of South-West Africa, and the port and settlement of Walvis Bay.***(Signed by the Officer Administering the Government in English.)**(Assented to 6th April, 1943.)*

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of Act No. 22 of 1939.

1. The Matrimonial Causes Jurisdiction Act, 1939 (Act No. 22 of 1939) is hereby amended by the insertion of the following new sections after section *seven*—

“Definition. *7bis*. In this Act “Union” includes the Mandated Territory of South-West Africa.

Application to South-West Africa and Walvis Bay. *7ter*. This Act shall apply to the Mandated Territory of South-West Africa and the port and settlement of Walvis Bay, and for the purpose of such application the High Court of South-West Africa shall be deemed to be a provincial division of the Supreme Court of South Africa.”

Short title.

2. This Act shall be called the Matrimonial Causes Jurisdiction Amendment Act, 1943.

No. 15, 1943.]

WET**Tot opskorting van sekere bepalings van die „Wet op de Kriminele Procedure en Bewijslevering, 1917”.**

(Deur die Amptenaar Belas met die Uitoefening van die Uitvoerende Gesag in Engels geteken.)
(Goedgekeur op 6 April 1943.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. (1) Die bepalings van artikel *honderd twee-en-sewentig* van die „Wet op de Kriminele Procedure en Bewijslevering, 1917” (Wet No. 31 van 1917), word hierby opgeskort tot die eerste dag van die maand ingevolge sub-artikel (2) bekendgemaak.

Opskorting van bepalings van artikel 172 van Wet 31 van 1917, soos gewysig deur artikel 28 van Wet 46 van 1935.

(2) Die Goewerneur-generaal kan by proklamasie in die *Staatskoerant*, die maand van die jaar (wat nie later mag wees nie as die tweede jaar na die jaar waarin die Unie volgens die proklamasie van die Goewerneur-generaal ingevolge artikel *sewe* van die Wet op Oorlogsmaatreëls, 1940 (Wet No. 13 van 1940), opgehou het om in 'n oorlog betrokke te wees) vanaf welke die bepalings van genoemde artikel *honderd twee-en-sewentig* weer in werking tree, bekendmaak, en die verwysing in laasgenoemde artikel na die maand Januarie en die jaar 1936 word vervolgens geag 'n verwysing na die aldus bekendgemaakte maand en jaar te wees.

2. Hierdie Wet heet die Wet tot Opskorting van Jurielyste Kort titel. 1943.

No. 17, 1943.]

WET**Om die Wet op Regsbevoegdheid in Matrimoniale Regsake, 1939, toe te pas op die mandaatgebied Suidwes-Afrika en die hawe en nedersetting Walvisbaai.**

(Deur die Amptenaar Belas met die Uitoefening van die Uitvoerende Gesag in Engels geteken.)
(Goedgekeur op 6 April 1943.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg—

1. Die Wet op Regsbevoegdheid in Matrimoniale Regsake, Wysiging van Wet 1939 (Wet No. 22 van 1939), word hiermee gewysig deur die No. 22 van 1939. volgende nuwe artikels na artikel *sewe* in te voeg—

„Woord- bepaling. *7bis.* In hierdie Wet omvat „Unie” die mandaatgebied Suidwes-Afrika.

Toepassing op Suidwes-Afrika en Walvisbaai. *7ter.* Hierdie Wet is van toepassing op die mandaatgebied Suidwes-Afrika en die hawe en nedersetting Walvisbaai, en vir die doeleindes van sodanige toepassing word die Hooggeregshof van Suidwes-Afrika geag 'n provinsiale afdeling van die Hooggeregshof van Suid-Afrika te wees.”

2. Hierdie Wet heet die Wysigingswet op Regsbevoegdheid in Matrimoniale Regsake, 1943. Kort titel.

No. 16, 1943.]

ACT

To amend the Insolvency Act, 1936, and to apply it to the Mandated Territory of South-West Africa and the port and settlement of Walvis Bay.*(Signed by the Officer Administering the Government in Afrikaans.)**(Assented to 6th April, 1943.)*

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Definition.

Amendment of section 2 of Act No. 24 of 1936.

Amendment of section 4 of Act No. 24 of 1936.

Amendment of section 5 (2) of Act No. 24 of 1936.

Amendment of section 8 (g) of Act No. 24 of 1936.

Amendment of section 9 of Act No. 24 of 1936.

1. In this Act the expression "the principal Act" shall mean the Insolvency Act, 1936, as amended from time to time.

2. Section *two* of the principal Act is hereby amended—

(a) by the deletion of the proviso to the definition of "free residue";

(b) by the insertion of the following definition after the definition of "free residue":

" 'Gazette' means the Union of South Africa Government Gazette, but in the application of this Act to the mandated territory of South-West Africa, means the *Official Gazette* of the said mandated territory."

(c) by the insertion of the following definitions after the definition of "sheriff":

" 'special mortgage' means a mortgage bond hypothecating any immovable property or a notarial mortgage bond hypothecating specially described movable property in terms of section *one* of the Notarial Bonds (Natal) Act, 1932 (Act No. 18 of 1932), but excludes any other mortgage bond hypothecating movable property; 'Supreme Court', 'Division of the Supreme Court' and 'Provincial or Local Division of the Supreme Court', include the High Court of South-West Africa;

'the Territory' means the mandated territory of South-West Africa."

(d) by the addition at the end thereof of the following definition:

" 'Union' includes the mandated territory of South-West Africa."

3. Section *four* of the principal Act is hereby amended—

(a) by the addition of the following provisos at the end of sub-section (1):

" Provided that when a petition is presented as aforesaid in the High Court of South-West Africa the periods to be observed as aforesaid shall be thirty-five days and twenty-one days respectively, instead of thirty days and fourteen days:

Provided further that if the last seven days of the said period of thirty-five days do not fall wholly within a term for the dispatch of civil work of the High Court of South-West Africa then the said period shall be extended so as to embrace the first seven days of the next succeeding term."

(b) by the deletion of the words "in a registered letter" occurring in sub-section (2).

4. Sub-section (2) of section *five* of the principal Act is hereby amended by the addition of the following words at the end thereof:

" Including any business the debtor is licensed to carry on in terms of the Liquor Act, 1928, but subject in every case, *mutatis mutandis*, to the provisions of section *seventy*."

5. The Afrikaans text of paragraph (g) of section *eight* of the principal Act is hereby amended by inserting the words "een of ander van" after the word "om".

6. Section *nine* of the principal Act is hereby amended—

(a) by the insertion of the words "or is insolvent" after the words "act of insolvency" occurring in sub-section (1);

(b) by the addition of the following words at the end of the first sentence in sub-section (3):

"or otherwise allege that the debtor is in fact insolvent."

No. 16, 1943.]

WET**Om die Insolvensiewet, 1936, te wysig, en om dit toe te pas op die mandaatgebied Suidwes-Afrika en die hawe en nedersetting Walvisbaai.**

(Deur die Amptenaar Belas met die Uitoefening van die Uitvoerende Gesag in Afrikaans geteken.)
(Goedgekeur op 6 April 1943.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. In hierdie Wet beteken die uitdrukking „die Hoofwet” Woordbepaling. die Insolvensiewet, 1936, soos van tyd tot tyd gewysig.
2. Artikel twee van die Hoofwet word hiermee gewysig— Wysiging van artikel 2 van Wet No. 24 van 1936.
 - (a) deur die voorbehoudsbepaling van die omskrywing van „vrye oorskot” te skrap;
 - (b) deur die volgende omskrywing na die omskrywing van „vrye oorskot” in te voeg:

„„Staatskoerant” beteken die *Staatskoerant* van die Unie van Suid-Afrika maar insake die toepassing van hierdie Wet op die mandaatgebied Suidwes-Afrika beteken dit die *Offisiële Koerant* van genoemde mandaatgebied.”
 - (c) deur die volgende omskrywings na die omskrywing van „balju” in te voeg:

„„Spesiale verband” beteken ’n verband wat enige onroerende goed verhipotikeer of ’n notariële verband wat losgoed spesiaal daarin beskryf verhipotikeer ingevolge artikel een van die Wet op Notariële Verbande (Natal) 1932 (Wet No. 18 van 1932), maar sluit nie in enige ander verband wat losgoed verhipotikeer nie;

„Hooggeregshof”, „Afdeling van die Hooggeregshof” en „Provinsiale of Plaaslike Afdeling van die Hooggeregshof” omvat die Hooggeregshof van Suidwes-Afrika;

„die Gebied” beteken die mandaatgebied Suidwes-Afrika.”
 - (d) deur die volgende omskrywing aan die end daarvan by te voeg:

„„Unie” omvat die mandaatgebied Suidwes-Afrika.”
3. Artikel vier van die Hoofwet word hiermee gewysig: Wysiging van artikel 4 van Wet No. 24 van 1936.
 - (a) deur die volgende voorbehoudsbepalings aan die end van sub-artikel (1) by te voeg:

„Met dien verstande dat waar ’n versoek ingedien word soos voormeld in die Hooggeregshof van Suidwes-Afrika die bedoelde periodes wat moet nagekom word respektiefflik vyf-en-dertig dae en een-en-twintig dae is, in plaas van dertig dae en veertien dae:

Met dien verstande voorts dat ingeval die laaste sewe dae van bedoelde periode van vyf-en-dertig dae nie geheel en al binne die sittingstyd vir die afhandeling van siviele sake van die Hooggeregshof van Suidwes-Afrika val nie bedoelde periode dan verleng moet word om die eerste sewe dae van die eersvolgende sittingstyd in te sluit.”;
 - (b) deur die woorde „per geregistreerde brief” wat in sub-artikel (2) voorkom te skrap.
4. Sub-artikel (2) van artikel vyf van die Hoofwet word hiermee gewysig deur die volgende woorde aan die end daarvan by te voeg: Wysiging van artikel 5 (2) van Wet No. 24 van 1936.

„met inbegrip van enige besigheid wat die skuldenaar gelisensieer is om te drywe ingevolge die Drankwet, 1928, maar onderworpe in elke geval, *mutatis mutandis*, aan die bepalings van artikel sewentig”.
5. Die Afrikaanse bewoording van paragraaf (g) van artikel agt van die Hoofwet word hiermee gewysig deur die woorde „een of ander van” na die woord „om” in te voeg. Wysiging van artikel 8 (g) van Wet No. 24 van 1936.
6. Artikel nege van die Hoofwet word hiermee gewysig: Wysiging van artikel 9 van Wet No. 24 van 1936.
 - (a) deur die woorde „of insolvent is” in te voeg na die woorde „begaan het” waar hulle in sub-artikel (1) voorkom;
 - (b) deur die volgende woorde aan die end van die eerste volsin van sub-artikel (3) by te voeg:

„of andersins dan beweer dat die skuldenaar wel insolvent is”.

- Amendment of section 13 of Act No. 24 of 1936.
7. Section *thirteen* of the principal Act is hereby amended—
- (a) by the substitution of the words “ finally or on acceptance of surrender ”, for the word “ finally ”;
- (b) by the addition of the following new sub-sections as sub-sections (2) and (3), the present section becoming sub-section (1) :
- “ (2) Where the individual estate of a partner is unable fully to meet the costs of sequestration, the balance shall be paid out of the estate of the partnership.
- (3) The surrender of the estate of a partnership shall not be accepted unless and until the Court is satisfied that petitions have been presented for the acceptance of the surrender of the separate estates of all the partners in the partnership concerned, and that in this regard the requirements of section *four* have been observed. The petitions *re* the surrender of the separate estates of the several partners may be incorporated in the petition *re* the surrender of the estate of the partnership.”
- Amendment of section 15 of Act No. 24 of 1936.
8. The Afrikaans text of section *fifteen* of the principal Act is hereby amended by the deletion of the words “ van oordeel ” and the substitution therefor of the word “ oortuig ”.
- Amendment of section 16 (1) of Act No. 24 of 1936.
9. Sub-section (1) of section *sixteen* of the principal Act is hereby amended by the insertion in brackets of the words “ (including an order on acceptance of surrender) ” after the word “ sequestration ”.
- Amendment of section 17 (4) of Act No. 24 of 1936.
10. Sub-section (4) of section *seventeen* of the principal Act is hereby deleted and the following new sub-section substituted therefor :
- “ (4) When the Master has received a sequestration order or an order setting aside a provisional sequestration order he shall in each case give notice in the *Gazette* of such order.”
- Amendment of section 18 (3) of Act No. 24 of 1936.
11. Sub-section (3) of section *eighteen* of the principal Act is hereby amended by the addition of the following words at the end thereof :
- “ Such sale shall furthermore be after such notices and subject to such conditions as the Master may direct.”
- Amendment of section 21 (2) (d) of Act No. 24 of 1936.
12. Paragraph (d) of sub-section (2) of section *twenty-one* of the principal Act is hereby amended by the insertion of the following words before the word “ or ” occurring at the end thereof :
- “ or by the Insurance Ordinance, 1927 (Ordinance No. 12 of 1927 of the Territory),”.
- Amendment of section 23 of Act No. 24 of 1936.
13. Section *twenty-three* of the principal Act is hereby amended by the insertion of the following sub-section as sub-section (3)*bis* after sub-section (3) :
- “ (3)*bis*. Where a trustee has given his written consent to an insolvent to enter into a contract, or to carry on a trade in terms of sub-section (2) or sub-section (3), as the case may be, he shall forthwith forward to the Master a copy of such consent. Any trustee who does not so forward such consent within one week after it has been granted, shall be deemed to have contravened the provisions of paragraph (b) of section *sixty*.”
- Amendment of section 37 (5) of Act No. 24 of 1936.
14. Sub-section (5) of section *thirty-seven* of the principal Act is hereby deleted and the following new sub-section substituted therefor :
- “ (5) A stipulation in a lease that the lease shall terminate or be varied upon the sequestration of the estate of either party shall be null and void, but a stipulation in a lease which restricts or prohibits the transfer of any right under the lease or which provides for the termination or cancellation of the lease by reason of the death of the lessee or of his successor in title, shall bind the trustee of the insolvent estate of the lessee or of his successor in title, as if he were the lessee or the said successor, or the executor in the estate of the lessee or his said successor, as the case may be.”
- Amendment of section 44 (4) of Act No. 24 of 1936.
15. Sub-section (4) of section *forty-four* of the principal Act is hereby amended—
- (a) by the deletion of the words “ and if he has not realized the security ” and the substitution therefor of the words :

7. Artikel *dertien* van die Hoofwet word hiermee gewysig— Wysiging van artikel 13 van Wet No. 24 van 1936.
- (a) deur die woord „finaal” te skrap en te vervang deur die woorde „finaal of by aanname van boedeloorgawe”;
- (b) deur die volgende nuwe sub-artikels as sub-artikels (2) en (3) by te voeg, waardeur die bestaande artikel sub-artikel (1) word:
- „(2) Ingeval die afsonderlike boedel van ’n vennoot nie in staat is om die koste van sekwestrasie ten volle te dek nie, word die oorskot betaal uit die boedel van die vennootskap.
- (3) Die oorgawe van die boedel van ’n vennootskap word nie aangeneem nie, tensy en totdat die Hof oortuig is dat versoeke ingedien is om die aanname van die oorgawe van die afsonderlike boedels van al die vennote van die betrokke vennootskap en dat in hierdie verband die vereistes van artikel *vier* nagekom is. Die versoeke insake die oorgawes van die afsonderlike boedels van die verskeie vennote kan ingelyf word in die versoekskrif insake die oorgawe van die boedel van die vennootskap.”
8. Die Afrikaanse bewoording van artikel *vyftien* van die Hoofwet word hiermee gewysig deur die woorde „van oordeel” te skrap en te vervang deur die woord „oortuig”. Wysiging van artikel 15 van Wet No. 24 van 1936.
9. Sub-artikel (1) van artikel *sestien* van die Hoofwet word hiermee gewysig deur die woorde „(met inbegrip van ’n order by aanname van boedeloorgawe)” tussen hakies ná die woord „sekwestrasie-order” in te voeg. Wysiging van artikel 16 (1) van Wet No. 24 van 1936.
10. Sub-artikel (4) van artikel *sewentien* van die Hoofwet word hiermee geskrap en vervang deur die volgende nuwe sub-artikel: Wysiging van artikel 17 (4) van Wet No. 24 van 1936.
- „(4) Wanneer die Meester ’n sekwestrasie-order ontvang het, of ’n order wat ’n voorlopige sekwestrasie-order vernietig, moet hy in elke geval kennis gee in die *Staatskoerant* van sodanige order.”
11. Sub-artikel (3) van artikel *agtien* van die Hoofwet word hiermee gewysig deur die volgende woorde aan die end daarvan by te voeg: Wysiging van artikel 18 (3) van Wet No. 24 van 1936.
- „Sodanige verkoping moet verder voorafgegaan word deur die kennisgewings en is onderworpe aan die voorwaardes wat die Meester mag voorskrywe.”
12. Paragraaf (*d*) van sub-artikel (2) van artikel *een-en-twintig* van die Hoofwet word hiermee gewysig deur die volgende woorde in te voeg voor die woord „of” waar dit aan die end daarvan voorkom: Wysiging van artikel 21 (2) (*d*) van Wet No. 24 van 1936.
- „of deur die Versekerings-Ordonnansie, 1927 (Ordonnansie No. 12 van 1927 van die Gebied);”.
13. Artikel *drie-en-twintig* van die Hoofwet word hiermee gewysig deur die volgende sub-artikel in te voeg as sub-artikel (3)*bis* na sub-artikel (3): Wysiging van artikel 23 van Wet No. 24 van 1936.
- „(3)*bis*. Wanneer ’n kurator aan ’n insolvent sy skriftelike toestemming gegee het om ’n kontrak aan te gaan of om handel te drywe, ingevolge sub-artikel (2) of sub-artikel (3), na gelang van die geval, moet hy sonder versuim ’n afskrif van die toestemming aan die Meester stuur. ’n Kurator wat nie aldus sodanige toestemming aanstuur binne ’n week nadat dit toegestaan is nie, word geag die bepaling van paragraaf (*b*) van artikel *sestig* te oortree het.”
14. Sub-artikel (5) van artikel *sewe-en-dertig* van die Hoofwet word hiermee geskrap en vervang deur die volgende nuwe sub-artikel: Wysiging van artikel 37 (5) van Wet No. 24 van 1936.
- „(5) ’n Beding in ’n huurkontrak dat die huur sal eindig of ’n verandering ondergaan met die sekwestrasie van die boedel van een of ander van die partye tot die huur is nietig, maar ’n beding in ’n huurkontrak wat die oordrag van enige reg wat bestaan kragtens die huurkontrak, beperk of verbied, of wat voorsiening maak vir die beëindiging of intrekking van die huur uit hoofde van die dood van die huurder of van sy regsopvolger, verbind die kurator van die insolvente boedel van die huurder of van sy regsopvolger, asof hy die huurder of die bedoelde regsopvolger was, of die eksekuteur van die boedel van die huurder of van sy bedoelde opvolger, na gelang van die geval.”
15. Sub-artikel (4) van artikel *vier-en-veertig* van die Hoofwet word hiermee gewysig— Wysiging van artikel 44 (4) van Wet No. 24 van 1936.
- (a) deur die woorde „en as hy die sekuriteit nie te gelde gemaak het nie” te skrap en te vervang deur die woorde:

- “ and if it consists of movable property in his possession which he has not realized ” ;
- (b) by the insertion of the words “ or proved ” after the word “ submitted ” in the proviso.
- Amendment of section 52 of Act No. 24 of 1936. 16. Section *fifty-two* of the principal Act is hereby amended by the addition of the following sub-section at the end thereof :
“ (6) A creditor may not vote on the question as to whether steps should be taken to contest his claim or preference.”
- Amendment of section 55 (d) of Act No. 24 of 1936. 17. Paragraph (d) of section *fifty-five* of the principal Act is hereby amended by the deletion of the words “ or in the mandated territory of South-West Africa ”.
- Amendment of section 56 (2) of Act No. 24 of 1936. 18. Sub-section (2) of section *fifty-six* of the principal Act is hereby amended by the deletion of the words “ and the mandated territory of South-West Africa ”.
- Amendment of section 67 (1) of Act No. 24 of 1936. 19. Sub-section (1) of section *sixty-seven* of the principal Act is hereby amended by the addition of the following definition at the end thereof :
“ For the purposes of this sub-section the word ‘ Province ’ shall include the Territory.”
- Amendment of section 73 (1) of Act No. 24 of 1936. 20. Sub-section (1) of section *seventy-three* of the principal Act is hereby amended by the deletion of the words “ institute or defend any legal proceedings on behalf of the estate ”, and the substitution therefor of the words “ act as aforesaid ”.
- Amendment of section 78 (3) of Act No. 24 of 1936. 21. Sub-section (3) of section *seventy-eight* of the principal Act is hereby amended by the deletion of the words “ was tendered at a meeting of creditors but the claim was wholly or partly rejected ” and the substitution therefor of the words “ has been duly tendered at a meeting of creditors ”.
- Amendment of section 80 (1) of Act No. 24 of 1936. 22. Section *eighty* of the principal Act is hereby amended by the addition of the following words at the end of sub-section (1) thereof :
“ Such authorization may be given by the Master at any time, whether before or after the second meeting of creditors ”.
- Insertion of new section 80bis in Act No. 24 of 1936. 23. The principal Act is hereby amended by the insertion of the following section as section *eighty bis* after section *eighty* :
“ Sale of movable property on authorization of Master. 80bis. (1) At any time before the second meeting of creditors the trustee shall, if satisfied that any movable property of the estate ought forthwith to be sold, recommend to the Master in writing accordingly stating his reasons for such recommendation.
(2) The Master may thereupon authorize the sale of such property, or of any portion thereof, on such conditions and in such manner as he may direct : Provided that, if the Master has notice that such property or a portion thereof is subject to a right of preference, he shall not authorize the sale of such property or such portion, unless the person entitled to such right of preference has given his consent thereto in writing or the trustee has guaranteed that person against loss by such sale.”
- Amendment of section 83 of Act No. 24 of 1936. 24. Section *eighty-three* of the principal Act is hereby amended—
(a) by the deletion of the words “ (whether that property be movable or immovable) ” and the words “ or mortgage ” occurring in sub-section (11) thereof ;
(b) by the deletion of sub-section (13) and the substitution therefor of the following new sub-section :
“ (13) The preceding provisions of this section shall apply *mutatis mutandis* in respect of any creditor for value of a solvent spouse mentioned in section *twenty-one*, who holds as security for his claim against that spouse any movable property belonging to that spouse.”
- Amendment of section 85 (2) of Act No. 24 of 1936. 25. Sub-section (2) of section *eighty-five* of the principal Act is hereby amended by the deletion of the word “ due ”, and the substitution therefor of the word “ calculated ”.
- Amendment of section 86 of Act No. 24 of 1936. 26. Section *eighty-six* of the principal Act is hereby amended by the deletion of the words “ special mortgage bond ” and the substitution therefor of the words “ mortgage bond hypothecating immovable property ”.
- Amendment of section 89 of (5) of Act No. 24 of 1936. 27. Sub-section (5) of section *eighty-nine* of the principal Act is hereby amended by the insertion of the words “ or the Administration of the Territory ” after the word “ administration ”.

- „en as dit bestaan uit losgoed wat in sy besit is en wat hy nie te gelde gemaak het nie.”;
- (b) deur die woorde „of bewys” in te voeg na die woord „voorgelê” in die voorbehoudsbepaling.
16. Artikel *twee-en-vyftig* van die Hoofwet word hiermee gewysig deur die volgende sub-artikel aan die end daarvan by te voeg: Wysiging van artikel 52 van Wet No. 24 van 1936.
- „(6) ’n Skuldeiser mag nie stem oor die vraag of daar stappe gedoen sal word om sy vordering of sy preferente reg te betwis nie.”
17. Paragraaf (d) van artikel *vyf-en-vyftig* van die Hoofwet word hiermee gewysig deur die woorde „of die mandaatgebied Suidwes-Afrika” te skrap. Wysiging van artikel 55 (d) van Wet No. 24 van 1936.
18. Sub-artikel (2) van artikel *ses-en-vyftig* van die Hoofwet word hiermee gewysig deur die woorde „en die mandaatgebied Suidwes-Afrika” te skrap. Wysiging van artikel 56 (2) van Wet No. 24 van 1936.
19. Sub-artikel (1) van artikel *sewe-en-sestig* van die Hoofwet word hiermee gewysig deur die volgende omskrywing aan die end daarvan by te voeg: Wysiging van artikel 67 (1) van Wet No. 24 van 1936.
- „Vir die doeleindes van hierdie sub-artikel, omvat die woord „provinsie” die Gebied”.
20. Sub-artikel (1) van artikel *drie-en-sewentig* van die Hoofwet word hiermee gewysig deur die woorde „namens die boedel as eiser of verweerder in regte mag optree nie” te skrap en te vervang deur die woorde „soos voormeld mag handel nie”. Wysiging van artikel 73 (1) van Wet No. 24 van 1936.
21. Sub-artikel (3) van artikel *agt-en-sewentig* van die Hoofwet word hiermee gewysig deur die woord „tereg” in te voeg voor die woord „aangebied” en die woorde „maar die vordering geheel of gedeeltelik afgewys is” te skrap. Wysiging van artikel 78 (3) van Wet No. 24 van 1936.
22. Artikel *tagtig* van die Hoofwet word hiermee gewysig deur die volgende woorde aan die end van sub-artikel (1) daarvan by te voeg: Wysiging van artikel 80 (1) van Wet No. 24 van 1936.
- „Sodanige magtiging mag te eniger tyd deur die Meester verleen word, hetsy voor of na die tweede byeenkoms van skuldeisers”.
23. Die Hoofwet word hiermee gewysig deur die volgende artikel in te voeg as artikel *tagtig bis* na artikel *tagtig*: Invoeging van artikel 80bis in Wet No. 24 van 1936.
- „Verkoop *80bis*. (1) Te eniger tyd voor die tweede byeenkoms van skuldeisers moet die kurator, as hy kragtens oortuig is dat enige losgoed in die boedel sonder magtiging deur Meester, versuim verkoop behoort te word, skriftelik aan die Meester aldus ’n aanbeveling doen, met daarby sy redes daarvoor.
- (2) Die Meester kan daarna die verkoop van bedoelde goed of van enige gedeelte daarvan magtig, op die voorwaardes en op die wyse deur hom bepaal: Met dien verstande dat, indien die Meester kennis dra dat sodanige goed of ’n gedeelte daarvan onderworpe is aan ’n preferente reg, hy nie die verkoop van sodanige goed of sodanige gedeelte mag magtig nie, tensy die persoon wat geregtig is op bedoelde preferente reg skriftelik sy toestemming daartoe gegee het, of die kurator gewaarborg het dat bedoelde persoon nie deur die verkoop verlies sal ly nie.”
24. Artikel *drie-en-tagtig* van die Hoofwet word hiermee gewysig— Wysiging van artikel 83 van Wet No. 24 van 1936.
- (a) deur die woorde „(onverskillig of daardie goed roerend of onroerend is)”, en die woorde „of verband” wat in sub-artikel (11) daarvan voorkom te skrap;
- (b) deur sub-artikel (13) te skrap en deur die volgende nuwe sub-artikel te vervang:
- „(13) Die voorafgaande bepalings van hierdie artikel is *mutatis mutandis* van toepassing met betrekking tot ’n skuldeiser vir waarde van ’n solvente eggenoot bedoel in artikel *een-en-twintig*, wat enige losgoed wat aan daardie eggenoot behoort as sekuriteit vir sy vordering besit.”
25. Sub-artikel (2) van artikel *vyf-en-tagtig* van die Hoofwet word hiermee gewysig deur die woorde „verskuldig is vir” te skrap en te vervang deur die woorde „bereken word ten opsigte van”. Wysiging van artikel 85 (2) van Wet No. 24 van 1936.
26. Artikel *ses-en-tagtig* van die Hoofwet word hiermee gewysig deur die woorde „spesiale verband” te skrap en te vervang deur die woorde „verband wat onroerende goed verhipotikeer”. Wysiging van artikel 86 van Wet No. 24 van 1936.
27. Sub-artikel (5) van artikel *nege-en-tagtig* van die Hoofwet word hiermee gewysig deur die woorde „of die Administrasie van die Gebied” na die woord „administrasie” in te voeg. Wysiging van artikel 89 (5) van Wet No. 24 van 1936.

- Amendment of section 90 of Act No. 24 of 1936.
- Amendment of section 99 of Act No. 24 of 1936.
- Amendment of section 101 of Act No. 24 of 1936 as substituted by section 87 of Act No. 31 of 1941.
- Amendment of section 119 (7) of Act No. 24 of 1936.
- Amendment of section 124 of Act No. 24 of 1936.
- Amendment of section 134 (1) of Act No. 24 of 1936.
- Amendment of section 148 of Act No. 24 of 1936.
- Amendment of section 150 of Act No. 24 of 1936.
- Amendment of Tariff A in the Second Schedule to Act No. 24 of 1936.
- Application of Act No. 24 of 1936 to South-West Africa and Walvis Bay.
- Repeal of S.W.A. Ordinance No. 7 of 1928.
- Short title and date of commencement.
28. Section *ninety* of the principal Act is hereby amended by the insertion of the words " or the Land and Agricultural Bank of South West Africa " after the words " South Africa ".
29. Section *ninety-nine* of the principal Act is hereby amended by the deletion at the end thereof of the words " Workmen's Compensation Act, 1934 (Act No. 59 of 1934) " and the substitution therefor of the words " Workmen's Compensation Act, 1941 (Act No. 30 of 1941), or the Workmen's Compensation (Accidents and Industrial Diseases) Proclamation, 1924 (Proclamation by the Administrator of the Territory No. 27 of 1924), as amended from time to time ".
30. Section *one hundred and one* of the principal Act is hereby amended by the addition of the following paragraph at the end thereof:
- " For the purposes of this section the expression ' Act of Parliament ' shall include an Ordinance of the Territory. "
31. Sub-section (7) of section *one hundred and nineteen* of the principal Act is hereby amended by the deletion of the words " or in terms of sub-section (8) ".
32. Section *one hundred and twenty-four* of the principal Act is hereby amended—
- (a) by the deletion of the word and symbol " or (8) " occurring in sub-section (1) thereof;
- (b) by the addition at the end of paragraph (c) of sub-section (2) thereof of the words:
- " or of the Insolvency Ordinance, 1928 (Ordinance No. 7 of 1928), of the Territory ".
33. Sub-section (1) of section *one hundred and thirty-four* of the principal Act is hereby amended by the insertion of the words " or, in the case of an insolvent whose estate has been sequestrated by an order of the High Court of South-West Africa, the German language " after the word " language ".
34. Section *one hundred and forty-eight* of the principal Act is hereby amended by the insertion of the words " or under the Insolvency Ordinance, 1928 (Ordinance No. 7 of 1928 of the Territory) " after the words " Insolvency Act, 1916 ".
35. Section *one hundred and fifty* of the principal Act is hereby amended by the addition of the following new sub-section as sub-section (5):
- " (5) There shall be no appeal against any Order made by the Court in terms of this Act, except as provided in this section ".
36. Tariff " A " in the Second Schedule to the principal Act is hereby amended by the addition of the following words at the end thereof:
- " For a Deputy Sheriff's Fees in the Territory ten per cent. shall be added to the fees set out above, except in the case of the travelling allowance per mile ".
37. The principal Act as amended by this Act, shall apply to the mandated territory of South-West Africa and the port and settlement of Walvis Bay, and for the purposes of such application the said port and settlement shall be deemed to be a portion of the said mandated territory.
38. The Insolvency Ordinance, 1928 (Ordinance No. 7 of 1928), of the Territory, the Insolvency Law Amendment Proclamation, 1932 (Proclamation by the Administrator of the Territory No. 24 of 1932), and the Insolvency Ordinance Amendment Proclamation, 1933 (Proclamation by the Administrator of the Territory No. 21 of 1933), are hereby repealed: Provided that, if an estate was sequestrated or assigned in the Territory before the commencement of this Act, the sequestration or assignment and all proceedings in connection therewith shall be completed, and a person whose estate was sequestrated or assigned before such commencement and any matter relating to such sequestration, assignment or person shall be dealt with as if this Act had not been passed; and provided further that, if, before the said commencement, any action was taken under the said Ordinance No. 7 of 1928, with a view to the surrender or sequestration of an estate but the surrender or sequestration was not effected before the said commencement, such action shall, after such commencement, be deemed to have been taken under the principal Act, as amended by this Act, in so far as the principal Act so amended makes provision therefor.
39. This Act shall be called the Insolvency Law Amendment Act, 1943, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*, in so far as its application to the mandated territory of South-West Africa and the port and settlement of Walvis Bay is concerned, but shall otherwise be in force as from the date of promulgation.

No. 18, 1943.]

WET

To: wysiging en konsolidering van die wetsbepalings op verjaring.

(Deur die Amptenaar Belas met die Uitoefening van die Uitvoerende Gesag in Afrikaans geteken.)
(Goedgekeur op 9 April 1943.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat, en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. In hierdie Wet, tensy uit die samehang anders blyk, Woordomskriving.
beteken—

- „aksie”, enige geregtelike verrigtings van 'n siviele aard in 'n bevoegde hof in die Unie ingestel om 'n reg af te dwing;
- „skuldeiser”, 'n persoon deur wie 'n reg by aksie afdwingbaar is;
- „skuldenaar”, 'n persoon teen wie 'n reg by aksie afdwingbaar is;
- „mondelinge kontrak” enige kontrak behalwe 'n skriftelike kontrak;
- „regsonbevoegde persoon”,
 - (i) 'n minderjarige;
 - (ii) enige persoon onder kuratele;
 - (iii) in die geval van 'n aksie tussen eggenotes, beide man en vrou, tensy hulle uitmekaar is;
 - (iv) in die geval van 'n aksie tussen vennote, ten opsigte van regte wat uit die vennootskap ontstaan, elke vennoot vir solank as wat hy 'n lid van bedoelde vennootskap bly;
- „verjaring”, verkrygende sowel as bevrydende verjaring;
- „skriftelike kontrak” ook 'n kontrak waarvan die bepaling wat bewys moet word om die eis in geskil te staaf, op geskrif is, indien bedoelde geskrif as getuienis toelaatbaar is.

2. (1) Verkrygende verjaring is die verkryging van eiendomsreg deur die besit van 'n ander se roerende of onroerende goed of die gebruik van 'n servituut ten opsigte van onroerende goed, voortdurend vir dertig jaar, *nec vi, nec clam, nec precario*. Verkrygende verjaring.

(2) Sodra die dertigjarige termyn verstryk het, word sodanige besitter of gebruiker *ipso jure* eienaar van die goed of die servituut, na gelang van die geval.

3. (1) Bevrydende verjaring is die onafdwingbaar maak van 'n reg deur verloop van tyd. Bevrydende verjaring.

(2) Die termyne ten opsigte van bevrydende verjaring is die volgende:—

- (a) negentig dae ten opsigte van terugvordering van die oorskenking bo vyfhonderd pond van 'n donasie wat nie geregistreer of voor 'n notaris verly is nie;
- (b) een jaar ten opsigte van—
 - (i) 'n aksie op grond van laster;
 - (ii) die *actio redhibitoria*;
 - (iii) die *actio quanti minoris*;
 - (iv) 'n aksie op grond van *laesio enormis*;
- (c) drie jaar ten opsigte van—
 - (i) enige mondelinge kontrak;
 - (ii) enige vergoeding hoegenaamd of uitgawes wat aan iemand betaalbaar is (hetsy onder 'n skriftelike of 'n mondelinge kontrak) vir of in verband met deur hom bewese dienste of verrigte werk;
 - (iii) die prys van roerende goed wat verkoop en gelewer is, van materiaal wat gelewer is of kos of inwoning wat verskaf is (hetsy bedoelde prys onder 'n skriftelike of 'n mondelinge kontrak betaalbaar is);
 - (iv) huurgeld wat onder enige kontrak betaalbaar is;
 - (v) rente wat onder enige kontrak betaalbaar is met inbegrip van 'n verband;
 - (vi) aksies vir skadevergoeding behalwe dië waarvoor 'n ander termyn in hierdie Wet vasgestel word;
 - (vii) die *actio doli*;
 - (viii) behoudens die bepalinge van paragrawe (a) en (b) *condictiones indebiti, condictiones sine causa*, en gemeenregtelike verrigtings vir *restitutio in integrum*;

- (d) six years in respect of written contracts, including bills of exchange and other liquid documents but excluding mortgage bonds unless a shorter period is applicable under any provision of paragraph (c);
- (e) thirty years in respect of—
 - (i) mortgage bonds;
 - (ii) judgments of a court of law for payment of money, or for specific performance, or other such judgments which require further action by the person in whose favour they have been given, in order to secure compliance therewith;
 - (iii) any other action for which a period has not been provided in this Act.

(3) No defence to a claim shall become prescribed before the said claim is itself prescribed.

(4) A judgment of a court of law other than one referred to in paragraph (e) (ii) of sub-section (2) shall never be prescribed.

(5) A debt prescribed by extinctive prescription—

- (i) may be set off against a debt which came into existence after the lapse of the period of prescription; and
- (ii) is sufficient to support a contract of suretyship; but
- (iii) may not be ceded or in any other way transferred:

Provided that after the lapse of thirty years from the date on which the right of action in respect thereof first came into existence, a debt so prescribed shall cease to be capable of being set off or of supporting such contract of suretyship.

Where two or more periods apply.

4. If two or more periods of prescription may be applied to one cause of action the longest period shall be the period of prescription.

When prescription begins.

5. (1) Extinctive prescription shall begin to run—

- (a) in respect of an action for defamation—
 - (i) where the debtor is known to the creditor, from the date when the defamation was first brought to the knowledge of the creditor; or
 - (ii) where the debtor is not known to the creditor, from the date on which the creditor ascertained or might reasonably have been expected to ascertain the name of the debtor;
- (b) in respect of the recovery of the excess in value of a donation exceeding five hundred pounds, from the date of delivery;
- (c) in respect of any action for damages, other than for defamation, from the date when the wrong upon which the claim for damages is based was first brought to the knowledge of the creditor, or from the date on which the creditor might reasonably have been expected to have knowledge of such wrong, whichever is the earlier date;
- (d) in respect of an action, other than for damages, from the date on which the right of action first accrued against the debtor.

(2) For the purposes of this Act a right of action in respect of a claim referred to in paragraph (c) (ii) of sub-section (2) of section *three* shall be deemed first to have accrued when the work or services in question have been completed or when the relationship of employer and employed has ceased in regard to the particular matter, whichever is the earlier date.

Interruption of prescription.

6. (1) Extinctive prescription shall be interrupted by—

- (a) acknowledgment by the debtor by—
 - (i) part payment;
 - (ii) payment of interest;
 - (iii) the giving of security; or
 - (iv) admitting liability in any other manner, whether express or implied, and whether verbal or in writing;
- (b) service on the debtor of any process whereby action is instituted;
- (c) submission to arbitration;
- (d) the filing of a claim against—
 - (i) an insolvent estate;
 - (ii) an applicant under the Farmers' Assistance Act No. 48 of 1935;
 - (iii) a company in liquidation; or
 - (iv) the estate of a deceased person,

- (d) ses jaar ten opsigte van skriftelike kontrakte met inbegrip van wissels en ander likwide stukke maar met uitsluiting van verbande, tensy 'n korter termyn onder enige bepaling van paragraaf (c) van toepassing is ;
- (e) dertig jaar ten opsigte van—
- (i) verbande ;
 - (ii) vonnisse van 'n geregshof vir betaling van 'n geldsom of vir spesifieke nakoming, of ander sodanige vonnisse wat verdere geregtelike stappe vereis deur die persoon ten gunste van wie hulle gegee is, om uitvoering daarvan te bewerkstellig ;
 - (iii) enige ander aksie waarvoor in hierdie Wet geen termyn vasgestel is nie.
- (3) Geen verweer teen 'n eis verjaar alvorens bedoelde eis self verjaar het nie.
- (4) 'n Ander as 'n in paragraaf (e) (ii) van sub-artikel (2) bedoelde vonnis van 'n geregshof verjaar nooit nie.
- (5) 'n Deur bevrydende verjaring verjaarde skuld—
- (i) kan in mindering gebring word van 'n skuld wat na verstryking van die verjaringstermyn ontstaan het ; en
 - (ii) is 'n voldoende grondslag vir 'n borgkontrak ; maar
 - (iii) mag nie gesedeer of op enige ander wyse oorgedra word nie :

Met dien verstande dat 'n aldus verjaarde skuld na verloop van dertig jaar vanaf die datum waarop die vorderingsreg ten opsigte daarvan eers ontstaan het nie meer in mindering gebring kan word of as grondslag vir 'n borgkontrak kan dien nie.

4. Wanneer twee of meer verjaringstermyne ten opsigte van één skuldoorsaak van toepassing is, is die langste termyn regsgeldig. Waar twee of meer termyne van toepassing is.

5. (1) Bevrydende verjaring loop—

- (a) ten opsigte van 'n aksie op grond van laster—
 - (i) indien die skuldenaar hom bekend is, vanaf die datum waarop die laster eers onder die skuldeiser se aandag gebring is ; of,
 - (ii) indien die skuldenaar hom onbekend is, vanaf die datum waarop die skuldeiser die skuldenaar se naam te wete gekom het of waarop redelikerwyse verwag kon word dat hy die naam sou te wete kom ;
- (b) ten opsigte van terugvordering van die oorskenking van 'n donasie bo vyfhonderd pond, vanaf die datum van lewering ;
- (c) ten opsigte van enige aksie vir skadevergoeding behalwe op grond van laster, vanaf die datum waarop die onregmatige daad waaruit die vergoedingseis ontstaan, eers onder die skuldeiser se aandag gebring is, of vanaf die datum waarop redelikerwyse verwag kon word dat hy van bedoelde daad bewus sou wees, watter datum ook die eerste is ;
- (d) ten opsigte van 'n ander aksie as vir skadevergoeding, vanaf die datum waarop die vorderingsreg eers teen die skuldenaar ontstaan het.

Wanneer verjaring begin loop.

(2) Vir die doeleindes van hierdie Wet word 'n vorderingsreg ten opsigte van 'n in paragraaf (c) (ii) van sub-artikel (2) van artikel drie bedoelde eis, geag te ontstaan het wanneer bedoelde werk of dienste voltooi is of wanneer die verhouding van werkgewer en werknemer, vir sover dit die betrokke saak raak, opgehou het om te bestaan, watter datum ook die eerste is.

6. (1) Bevrydende verjaring word gestuit deur—

- (a) die skuldenaar se skuldbekentenis by wyse van—
 - (i) gedeeltelike betaling ;
 - (ii) betaling van rente ;
 - (iii) die stel van sekerheid ; of
 - (iv) enige ander manier van erkenning van aanspreeklikheid, hetsy uitdruklik of stilswyend, hetsy mondelings of skriftelik ;
- (b) die diening op die skuldenaar van enige prosesstuk waarby aksie ingestel word ;
- (c) onderwerping aan arbitrasie ;
- (d) die indiening van 'n eis teen—
 - (i) 'n insolvente boedel ;
 - (ii) 'n applikant onder die Boere-Bystandswet, No. 48 van 1935 ;
 - (iii) 'n maatskappy in likwidasië ; of
 - (iv) die boedel van 'n oorledene ;

Stuiting van verjaring.

and shall begin to run *de novo* from the date when the interruption occurred: Provided that no period of prescription so beginning to run as a result of an admission of liability, other than an acknowledgment in writing, shall exceed three years.

(2) Interruption as against the principal debtor shall be deemed to be an interruption as against the surety.

Suspension
of prescription.

7. (1) Extinctive prescription shall be suspended—

- (a) so long as performance of an obligation is delayed by *vis major* or the debtor is lawfully entitled to delay performance on any other ground;
- (b) during the period of disability of the creditor;
- (c) during the absence of the debtor from the Union for a period exceeding six months;
- (d) until the date on which the creditor might reasonably have been expected to discover the true facts in respect of his right of action, if by the fraud of the debtor the creditor has been prevented from discovering such facts;
- (e) in an action founded upon the fraud of a debtor, until the date on which the creditor might reasonably have been expected to discover the said fraud.

(2) The period of suspension of prescription shall not be deemed to form part of the period of prescription, but prescription shall resume its running from the date on which the suspension ceases, and shall be completed at the expiration of a period which at the date of commencement of suspension, is equal to the unexpired portion of the full period required by this Act.

Co-debtors.

8. Prescription shall not be affected in respect of one joint debtor by any fact which would affect prescription in respect of any other joint debtor, except in the case of debtors liable *in solidum*.

Disability of
creditor.

9. When the creditor is a person under disability, extinctive prescription shall not begin to run until the date on which disability ceased.

Absence of
debtor.

10. When the debtor is absent from the Union extinctive prescription shall not begin to run until the date of his return.

Application of
Act.

11. (1) A prescription which has been completed at or after the commencement of this Act shall be deemed to have been completed under this Act.

(2) A prescription which has begun to run prior to the commencement of this Act shall be deemed to have begun to run under this Act, but except in respect of a case referred to in paragraph (a) of sub-section (2) of section *three* the period shall be the period which was applicable prior to such commencement: Provided that—

- (a) in no case shall the period exceed thirty years;
- (b) in no case mentioned in paragraphs (b), (c) and (d) of sub-section (2) of section *three* shall the period exceed eight years.

(3) Nothing in this Act contained shall affect any provision with regard to prescription which is in force in any law other than the laws specified in the Schedule.

(4) This Act shall not apply to any action between Natives in so far as under the Native Administration Act, No. 38 of 1927, such action is governed by Native law.

Action on
an account.

12. If action is instituted for the amount or balance of an account, no right of action in respect of a prescribed claim shall be maintainable by reason only of the inclusion in the same account of some other claim in respect of which the right of action first arose within the period of prescription.

Application to
Crown.

13. This Act binds the Crown: Provided that acquisitive prescription shall not run against the Crown unless the property concerned is capable of being alienated by the Government and of being owned by a private person.

Prescription to be
raised in
pleadings.

14. A party to a suit who raises prescription shall do so in the pleadings: Provided that the court may allow prescription to be raised at any stage in the proceedings.

Repeal of laws.

15. (1) Any rule of the common law which is inconsistent with the provisions of this Act is hereby repealed and article XVI of the Placaat of the Emperor Charles the Fifth dated

en loop *de novo* vanaf die datum waarop stuiting plaasgevind het: Met dien verstande dat geen verjaringstermyn wat aldus begin loop as gevolg van 'n erkenning van aanspreeklikheid anders as 'n skriftelike skuldbekentenis langer as drie jaar mag wees nie.

(2) Stuiting teen die hoofskuldenaar word geag stuiting te wees ook teen die borg.

7. (1) Bevrydende verjaring word geskors—

Skorsing van verjaring.

(a) solank as wat nakoming van 'n verpligting deur *vis major* verhinder word, of as wat die skuldenaar op enige ander grond volgens wet geregverdig is om nakoming te vertraag;

(b) solank as wat die skuldeiser regsonbevoeg is;

(c) gedurende die afwesigheid van die skuldenaar buite die Unie vir 'n tydperk van meer as ses maande;

(d) in die geval waar die skuldeiser deur die skuldenaar se bedrog verhinder is om die werklike feite ten opsigte van sy vorderingsreg te wete te kom, tot die datum waarop van die skuldeiser redelikerwyse verwag kon word dat hy bedoelde feite sou te wete gekom het;

(e) in 'n aksie op grond van die bedrog van 'n skuldenaar, tot die datum waarop van die skuldeiser redelikerwyse verwag kon word dat hy bedoelde bedrog sou te wete gekom het.

(2) Die tydsruimte van skorsing van verjaring word nie as 'n gedeelte van die verjaringstermyn beskou nie, maar verjaring begin weer loop vanaf die datum van staking van die skorsing, en word voltooi by verstryking van 'n tydperk wat op die aanvangsdatum van die skorsing dieselfde is as die onverstreke gedeelte van die volle deur hierdie Wet vereiste verjaringstermyn.

8. Verjaring word ten opsigte van een medeskuldenaar nie geraak nie deur enige aangeleentheid wat verjaring ten opsigte van enige ander medeskuldenaar sou affekteer, behalwe in die geval van medeskuldenare wat *in solidum* aanspreeklik is. Medeskuldenare.

9. Wanneer die skuldeiser 'n regsonbevoegde persoon is, begin bevrydende verjaring nie loop nie tot op die datum waarop die onbevoegdheid opgehou het om te bestaan. Regsonbevoegdheid van skuldeiser.

10. Wanneer die skuldenaar uit die Unie afwesig is, begin bevrydende verjaring nie loop nie tot op die datum van sy terugkoms. Afwesigheid van skuldenaar.

11. (1) 'n Verjaring wat by of na die inwerkingtreding van hierdie Wet voltooi is, word geag kragtens hierdie Wet voltooi te gewees het. Toepassing van Wet.

(2) 'n Verjaring wat voor die inwerkingtreding van hierdie Wet begin loop het, word geag onder hierdie Wet te begin het, maar behalwe ten opsigte van 'n in paragraaf (a) van sub-artikel (2) van artikel *drie* bedoelde geval, is die verjaringstermyn die termyn wat voor bedoelde inwerkingtreding van toepassing was: Met dien verstande—

(a) dat die termyn in geen geval meer as dertig jaar mag wees nie;

(b) dat in geen geval wat in paragrafe (b), (c) en (d) van sub-artikel (2) van artikel *drie* vermeld is, die termyn meer as agt jaar mag wees nie.

(3) Geen bepaling van hierdie Wet raak enige bepaling met betrekking tot verjaring wat volgens enige wet behalwe die in die Bylae gemelde wette, van krag is.

(4) Hierdie Wet is nie van toepassing nie op enige aksie tussen natuurlike vir sover as wat bedoelde aksie deur natuurlike-reg kragtens die Naturelle-administrasiewet, No. 38 van 1927, gereël word.

12. Indien aksie ingestel is vir die bedrag of balans van 'n rekening, is geen vorderingsreg ten opsigte van 'n verjaarde eis voerbaar nie, louter omrede dat daar in dieselfde rekening vervat is 'n ander eis ten opsigte waarvan die vorderingsreg eers binne die verjaringstermyn ontstaan het. Aksie om 'n rekening.

13. Hierdie Wet verbind die Kroon: Met dien verstande dat verkrygende verjaring nie teen die Kroon loop nie tensy die betrokke goed deur die Regering vervreem kan word en deur 'n individu in privaatbesit gehou kan word. Toepassing op Kroon.

14. 'n Party tot 'n geding wat verjaring opper moet dit in die pleitskrifte doen: Met dien verstande dat die hof kan toelaat dat verjaring by enige stadium van die verrigtingsgeopper word. Verjaring moet in pleitskrifte geopper word.

15. (1) Alle gemeenregreëls wat met die bepalinge van hierdie Wet onbestaanbaar is word hierby herroep, en artikel XVI van die Placaat van Keyser Karel die Vyfde gedateer die vierde Herroeping van Wette.

the fourth day of October, 1540, in so far as it has not already been withdrawn, is hereby withdrawn from operation.

(2) The laws mentioned in the Schedule to this Act are hereby repealed to the extent set out in the fourth column of that Schedule.

Short title.

16. This Act may be cited as the Prescription Act, 1943.

Schedule.

LAWS REPEALED.

Province.	No. and Year.	Title or Subject.	Extent of Repeal.
Cape ..	Act No. 6 of 1861.	The Prescription Amendment Act, 1861.	The whole.
„ ..	Act No. 7 of 1865.	The Land Beacons Consolidation Act, 1865.	Section <i>one hundred and six.</i>
Natal ..	Law No. 14 of 1861.	The Prescription Amendment Law, 1861.	The whole.
O.F.S. ..	Chapter XXIII of the Law Book.	The prescription of actions.	The whole.
Transvaal ..	Act No. 26 of 1908.	The Prescription Amendment Act, 1908.	The whole.

dag van Oktober, 1540, vir sover dit nie alreeds ingetrek is nie, word hierby afgeskaf.

(2) Die wette in die Bylae tot hierdie Wet opgenoem, word hierby herroep vir sover in die vierde kolom van daardie Bylae aangedui word.

16. Hierdie Wet heet die Verjaringswet, 1943.

Kort titel.

Bylae.

WETTE HERROEP.

Provinsie.	No. en Jaar.	Titel of Onderwerp.	Omvang van Herroeping.
Kaap ..	Wet No. 6 van 1861.	„The Prescription Amendment Act, 1861.”	Die geheel.
„ ..	Wet No. 7 van 1865.	„The Land Beacons Consolidation Act, 1865.”	Artikel <i>honderden-ses</i> .
Natal ..	Wet No. 14 van 1861.	„The Prescription Amendment Law, 1861.”	Die geheel.
Oranje-Vrystaat	H o o f d s t u k XXIII van Wetboek.	„Over de verjaring van acties.”	Die geheel.
Transvaal ..	Wet No. 26 van 1908.	„The Prescription Amendment Act, 1908.”	Die geheel.

No. 19, 1943.]

ACT**To exclude certain persons from the provisions of the South Africa Act, 1909, relating to the holding of offices of profit under the Crown.***(Signed by the Officer Administering the Government in English.)**(Assented to 9th April, 1943.)*

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Certain persons deemed not to hold or to have held offices of profit under the Crown.

1. (1) Any person appointed before or after the commencement of this Act, as a member of—

- (a) the Council of Public Health established by section *four* of the Public Health Act, 1919 (Act No. 36 of 1919); or
- (b) the South African Medical Council or the South African Pharmacy Board established by section *two* of the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928); or
- (c) the National Nutrition Council established by section *two* of the Public Health Amendment Act, 1940 (Act No. 14 of 1940); or
- (d) the council known as the Social and Economic Planning Council,

who receives no payment in respect of his services on such council or board or a committee thereof in excess of an allowance at the rate of three guineas for each day on which he renders such services together with the reimbursement of any travelling expenses incurred by him in the course of such services, shall not be deemed to hold an office of profit under the Crown in terms of section *fifty-three* of the South Africa Act, 1909, or of that section read with section *seventy-two* of the said Act.

(2) Any person who, after the commencement of this Act, holds an office under the Crown by virtue of an appointment as a member of any council, committee, board or similar body not referred to in sub-section (1), and in respect of his services on such council, committee, board or body, receives no payment in excess of the expenses actually and reasonably incurred by him in the course of such services shall, notwithstanding any provision in any law authorizing or requiring the payment of any remuneration or allowance to members of such council, committee, board or body, not be deemed to hold an office of profit under the Crown in terms of section *fifty-three* of the South Africa Act, 1909, or of that section read with section *seventy-two* of the said Act.

(3) Any person who, before the commencement of this Act, held an office under the Crown by virtue of an appointment as a member of any council, committee, board or similar body, and received no payment in respect of his services on such council, committee, board or body, in excess of an allowance and reimbursement referred to in sub-section (1), shall, in so far as his membership of such council, committee, board or body before the commencement of this Act is concerned, not be deemed to have held an office of profit under the Crown in terms of section *fifty-three* of the South Africa Act, 1909, or of that section read with section *seventy-two* of the said Act.

Short title.

2. This Act shall be called the Offices of Profit Amendment Act, 1943.

No. 19, 1943.]

WET

Om sekere persone buite die bepalings van die „Zuid-Afrika Wet, 1909,” betreffende die bekleding van winsbetrekkings onder die Kroon, te stel.

(Deur die Amptenaar Belas met die Uitoefening van die Uitvoerende Gesag in Engels geteken.)
(Goedgekeur op 9 April 1943.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. (1) Iemand wat voor of na die inwerkingtreding van hierdie Wet aangestel is as lid van—

- (a) die Volksgesondheidsraad by artikel vier van die „Volksgesondheidswet, 1919” (Wet No. 36 van 1919) ingestel; of
- (b) die Suidafrikaanse Geneeskundige Raad of die Suidafrikaanse Aptekerskommissie by artikel twee van die Wet op Geneeshere, Tandartse en Aptekers, 1928 (Wet No. 13 van 1928), ingestel; of
- (c) die Nasionale Voedingsraad by artikel twee van die Wysigingswet op Volksgesondheid, 1940 (Wet No. 14 van 1940), ingestel; of
- (d) die raad wat bekend staan as die Sosiale en Ekonomiese Planneraad,

Sekere persone word geag geen winsbetrekkings onder die Kroon te beklee of te beklee het nie.

en geen betaling ten aansien van sy dienste in sodanige raad of komitee of ’n komitee daarvan ontvang nie wat meer is dan ’n toelae volgens die skaal van drie ghienies vir elke dag waarop hy bedoelde dienste lewer benewens vergoeding van reiskoste deur hom in die loop van daardie dienste opgeloo, word nie geag ’n winsbetrekking onder die Kroon volgens artikel drie-en-vyftig van die „Zuid-Afrika Wet, 1909”, of volgens daardie artikel gelees met artikel twee-en-sewentig van genoemde Wet, te beklee nie.

(2) Iemand wat na die inwerkingtreding van hierdie Wet uit hoofde van ’n aanstelling as lid van ’n raad, komitee of dergelike liggaam wat nie in sub-artikel (1) genoem word nie, ’n betrekking onder die Kroon beklee, en geen betaling ten aansien van sy dienste in sodanige raad, komitee, of liggaam ontvang nie wat meer is dan die werklike redelike koste deur hom in die loop van daardie dienste opgeloo, word, ondanks enige wetsbepaling wat die betaling van ’n vergoeding of toelae aan lede van sodanige raad, komitee of liggaam magtig of voorskryf, nie geag ’n winsbetrekking onder die Kroon volgens artikel drie-en-vyftig van die „Zuid-Afrika Wet, 1909” of volgens daardie artikel gelees met artikel twee-en-sewentig van genoemde Wet, te beklee nie.

(3) Iemand wat voor die inwerkingtreding van hierdie Wet uit hoofde van ’n aanstelling as lid van ’n raad, komitee of dergelike liggaam ’n betrekking onder die Kroon beklee het en geen betaling ten aansien van sy dienste in sodanige raad, komitee of liggaam, wat meer is dan ’n in sub-artikel (1) bedoelde toelae en vergoeding ontvang het nie, word, wat sy lidmaatskap van bedoelde raad, komitee of liggaam voor die inwerkingtreding van hierdie Wet betref, nie geag ’n winsbetrekking onder die Kroon volgens artikel drie-en-vyftig van die „Zuid-Afrika Wet, 1909”, of volgens daardie artikel gelees met artikel twee-en-sewentig van genoemde Wet, te beklee het nie.

2. Hierdie Wet heet die Wysigingswet op Winsbetrekkings, Kort titel. 1943.

No. 20, 1943.]

ACT

To suspend the biennial registration of parliamentary voters; to amend the law relating to the supplementary registration of parliamentary voters and voting by absent voters, and to provide for matters incidental thereto; and furthermore to amend the law relating to the periodical computation of parliamentary voters resident in the areas of urban local authorities for the purpose of the granting of licences for the sale or supply of intoxicating liquor.

(Signed by the Officer Administering the Government in Afrikaans.)

(Assented to 14th April, 1943.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Definition.

1. In this Act, the expression "the principal Act" means the Electoral Act, 1918 (Act No. 12 of 1918), as amended from time to time.

Suspension of Biennial Registration in 1943 and substitution of supplementary registration therefor.

2. Notwithstanding anything contained in the Principal Act, it is hereby provided—

- (a) that the biennial registration of voters in terms of sub-section (2) of section *two* of the principal Act shall be suspended to the extent that the registration due to commence in the month of April, 1943, shall not take place;
- (b) that supplementary lists of voters shall be framed as soon as possible after the last day of May and the last day of September, 1943, respectively.

Provisions of Act No. 12 of 1918 apply in regard to supplementary lists under this Act.

3. The provisions of the principal Act relating to supplementary lists shall apply *mutatis mutandis* to the supplementary lists which are to be framed in terms of section *two*, and such lists shall be deemed for all purposes to be supplementary lists framed in terms of the principal Act.

1941 Voters List to be valid until replaced.

4. Until such time as the next biennial registration duly takes place, and subject to due and proper alteration and addition in terms of the principal Act, and in terms of the supplementary registrations authorized by this Act, the biennial voters list drawn up in 1941 shall be authoritative for the purpose of sub-section (2) of section *twenty-three* of the principal Act and for all other purposes.

Amendment of section 21 (5) of Act No. 12 of 1918 (as substituted by section 17 of Act No. 11 of 1926).

5. Section *twenty-one* of the principal Act is hereby amended by the deletion in sub-section (5) of the words "but not later than seven days" and of the words "or if such last day is a Sunday or a public holiday not later than seven days after such Sunday or public holiday."

Amendment of paragraph (1) of Second Schedule, Act No. 11 of 1926, as amended by section 27 of Act No. 20 of 1940.

6. Paragraph (1) of the Second Schedule to the Electoral Act, 1918, Amendment Act, 1926 (No. 11 of 1926), as amended, is hereby further amended—

- (a) by the deletion of the words "be in the prescribed form and";
- (b) by the deletion of the words "on oath";
- (c) by the deletion of the words "a competent witness" and the substitution therefor of the words "any adult Union National, hereinafter called a competent witness (who shall also sign the form and add the date and state his address thereon)";
- (d) by the deletion of the words "magistrate's office, electoral office or police station" and the substitution therefor of the word "address".

Deletion of paragraph (2) of Second Schedule, Act No. 11 of 1926.

7. Paragraph (2) of the said Schedule, as amended, is hereby deleted.

Amendment of paragraph (15) of Second Schedule, Act No. 11 of 1926, as substituted by section 32 of Act No. 20 of 1940.

8. Paragraph (15) of the said Schedule, as amended, is hereby further amended by the deletion of all the words after the word "despatch" where it occurs for the first time.

No. 20, 1943.]

WET

Om die tweejaarlikse registrasie van parlementêre kiesers op te skort; om die wet op die supplementêre registrasie van parlementêre kiesers en stemming deur afwesige kiesers te wysig en om voorsiening te maak vir sake wat daarmee in verband staan; en ook om die wet te wysig op die periodieke berekening van parlementêre kiesers wat woonagtig is in die gebiede van stedelike plaaslike besture ten einde lisensies vir die verkoop of verskaffing van bedwelmende drank te verleen.

(Deur die Amptenaar Belas met die Uitoefening van die
Uitvoerende Gesag in Afrikaans geteken.)
(Goedgekeur op 14 April 1943.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. In hierdie Wet beteken die uitdrukking „die Hoofwet” Woordbepaling. die Kieswet 1918 (Wet No. 12 van 1918), soos van tyd tot tyd gewysig.

2. Ondanks enigiets in die Hoofwet vervat, word dit hiermee bepaal—

- (a) dat die tweejaarlikse registrasie van kiesers ooreenkomstig sub-artikel (2) van artikel twee van die Hoofwet opgeskort word tot die mate dat die registrasie wat in die maand April 1943 behoort aan te vang nie plaasvind nie;
- (b) dat supplementêre kieserslyste opgestel moet word so spoedig moontlik na die laaste dag van Mei en die laaste dag van September 1943 respektiewelik.

Opskorting van tweejaarlikse registrasie in 1943 en vervanging daarvan deur supplementêre registrasie.

3. Die bepalinge van die Hoofwet insake supplementêre lyste is *mutatis mutandis* van toepassing op die supplementêre lyste wat opgestel moet word ooreenkomstig artikel twee, en sodanige lyste word geag vir alle doeleindes supplementêre lyste te wees wat ooreenkomstig die Hoofwet opgestel is.

Bepalinge van Wet No. 12 van 1918 van toepassing op supplementêre lyste onder hierdie Wet.

4. Tot tyd en wyl die volgende tweejaarlikse registrasie behoorlik plaasvind, en behoudens behoorlike en juiste wysiging en toevoeging ooreenkomstig die Hoofwet en ooreenkomstig die supplementêre registrasies deur hierdie Wet gemagtig, is die tweejaarlikse kieserslys wat in 1941 opgestel is gesaghebbend vir die doel van sub-artikel (2) van artikel drie-en-twintig van die Hoofwet en vir alle andere doeleindes.

1941-kieserslys is geldig totdat dit vervang word.

5. Artikel een-en-twintig van die Hoofwet word hiermee gewysig deur in sub-artikel (5) die woorde „maar niet later dan zeven dagen” en die woorde „of indien bedoelde laatste dag een Zondag of openbare feestdag is, niet later dan zeven dagen na die Zondag of openbare feestdag” te skrap.

Wysiging van artikel 21 (5) van Wet No. 12 van 1918, soos vervang deur artikel 17 van Wet No. 11 van 1926.

6. Paragraaf (1) van die Tweede Bylae van die „Kieswet 1918, Wijzigings Wet, 1926” (Wet No. 11 van 1926) soos gewysig, word hiermee verder gewysig—

Wysiging van paragraaf (1) van Tweede Bylae, Wet No. 11 van 1926, soos gewysig deur artikel 27 van Wet No. 20 van 1940.

- (a) deur die woorde „in de voorgeschreven vorm moet zijn en” te skrap;
- (b) deur die woord „beëdigde” te skrap;
- (c) deur die woorde „bevoegde getuige” te skrap en te vervang deur die woorde „mondige Unie-staatsburger, hieronder genoemd een bevoegde getuige (welke ook de vorm moet ondertekenen en de datum bijvoegen en zijn adres daarop vermelden)”;
- (d) deur die woorde „magistraatskantoor, verkiezingskantoor of politiekantoor” te skrap en te vervang deur die woord „adres”.

7. Paragraaf (2) van genoemde Bylae, soos gewysig, word hiermee geskrap.

Skrapping van paragraaf (2) van Tweede Bylae, Wet No. 11 van 1926.

8. Paragraaf (15) van genoemde Bylae, soos gewysig, word hiermee verder gewysig deur alle woorde te skrap na die woord „overhandig” waar dit vir die eerste keer voorkom.

Wysiging van paragraaf (15) van Tweede Bylae, Wet No. 11 van 1926, soos vervang deur artikel 32 van Wet No. 20 van 1940.

Amendment of paragraph (19) of Second Schedule, Act No. 11 of 1926, as amended by section 33 of Act No. 35 of 1931 and section 33 of Act No. 20 of 1940.

9. Sub-paragraph (a) of paragraph (19) of the said Schedule as amended, is hereby further amended—

- (a) by the insertion of the words "justice of the peace, commissioner of oaths", after the word "peace";
- (b) by the deletion of the words "in an" and the substitution therefor of the words "whether or not in the".

Special Supplementary registrations under this Act to be regarded as periodical registrations for purposes of Act No. 30 of 1928.

10. For the purposes of sub-section (3) of section *sixty-three* of the Liquor Act, 1928 (Act No. 30 of 1928), as amended by section *eleven*, the supplementary registrations framed in terms of paragraph (b) of section *two* shall be deemed to be periodical registrations.

Amendment of section 63 (3) of Act No. 30 of 1928.

11. Sub-section (3) of section *sixty-three* of the Liquor Act, 1928, is hereby amended by the insertion after the word "completed" of the words "and in any year in which there is no such general registration, as soon as the latest periodical supplementary registration of parliamentary voters in that year is completed."

Short title.

12. This Act shall be called the Electoral Laws Amendment Act, 1943.

9. Sub-paragraaf (a) van paragraaf (19) van genoemde Bylae, soos gewysig, word hiermee verder gewysig—
- (a) deur die woorde „vrederechter, kommissaris van eden” in te voeg na die woord „vrederechter”;
- (b) deur die woorde „in een” te skrap en te vervang deur die woorde „hetzij binnen, hetzij buiten het”.
10. Vir die doeleindes van sub-artikel (3) van artikel *drie-en-sestig* van die Drankwet, 1928 (Wet No. 30 van 1928), soos gewysig deur artikel *elf*, word die supplementêre registrasies wat opgestel is ooreenkomstig paragraaf (b) van artikel *twee*, geag periodieke registrasies te wees.
11. Sub-artikel (3) van artikel *drie-en-sestig* van die Drankwet, 1928, word hiermee gewysig deur die woorde „en in enige jaar waarin daar nie so 'n algemene registrasie is nie, so gou as die laaste periodieke supplementêre registrasie van parlementêre kiesers in daardie jaar voltooi is” na die woorde „voltooi is” in te voeg.
12. Hierdie Wet heet die Wysigingswet op die Kieswette, Kort titel. 1943.

Wysiging van paragraaf (19) van Tweede Bylae, Wet No. 11 van 1926, soos gewysig deur artikel 33 van Wet No. 35 van 1931, en artikel 33 van Wet No. 20 van 1940.

Spesiale supplementêre registrasies kragtens hierdie Wet word beskou as periodieke registrasies vir die doeleindes van Wet No. 30 van 1928.

Wysiging van artikel 63 (3) van Wet No. 30 van 1928.