

ADMINISTRATION OF ESTATES LAWS INTERIM RATIONALISATION ACT 20 OF 2001

[ASSENTED TO 13 JULY 2001] [DATE OF COMMENCEMENT: 20 JULY 2001]

(English text signed by the Acting President)

ACT

To amend the Administration of Estates Act, 1965, so as to delete certain definitions, substitute other definitions and insert new definitions; and to substitute obsolete references; to make the Administration of Estates Act, 1965, applicable throughout the Republic; to repeal corresponding laws in force in the areas of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei; to amend the Insolvency Act, 1936, so as to alter certain amounts; to amend the Age of Majority Act, 1972, so as to delete an obsolete reference; and to provide for matters connected therewith.

1 Amends section 1 of the Administration of Estates Act 66 of 1965 , as follows: paragraph *(a)* deletes the definitions of 'banking institution' and 'building society'; paragraph *(b)* inserts the definition of 'bank'; paragraph *(c)* substitutes the definition of 'Court'; paragraph *(d)* substitutes the definition of 'Master'; and paragraph *(e)* inserts the definition of 'office'.

2 and 3 Substitute respectively sections 2 and 3 of the Administration of Estates Act 66 of 1965 .

4 Amends section 4 of the Administration of Estates Act 66 of 1965 , as follows: paragraph *(a)* substitutes subsection (1) *(a)* ; and paragraph *(b)* substitutes subsection (2) *(a)* .

5 Amends section 12 of the Administration of Estates Act 66 of 1965 , as follows: paragraph *(a)* substitutes subsection (5); and paragraph *(b)* substitutes subsection (7).

6 Amends section 14 (1) of the Administration of Estates Act 66 of 1965 by substituting the words preceding paragraph *(a)* .

7 Amends section 15 (1) of the Administration of Estates Act 66 of 1965 by substituting the words preceding paragraph *(a)* .

8 Amends section 21 of the Administration of Estates Act 66 of 1965 by substituting the words preceding the proviso.

9 Amends section 28 of the Administration of Estates Act 66 of 1965 , as follows: paragraph *(a)* substitutes subsection (1); paragraph *(b)* substitutes subsection (2); paragraph *(c)* substitutes subsection (3); and paragraph *(d)* substitutes subsection (5).

10 Amends section 34 (1) of the Administration of Estates Act 66 of 1965 by substituting paragraph *(a)* .

11 Substitutes section 48 of the Administration of Estates Act 66 of 1965 .

12 Amends section 54 (1) *(b)* of the Administration of Estates Act 66 of 1965 by substituting subparagraph (iii).

13 and 14 Substitute respectively sections 87 and 91 of the Administration of Estates Act 66 of 1965 .

15 Amends section 93 of the Administration of Estates Act 66 of 1965 by substituting subsection (1).

16 Amends section 96 (1) of the Administration of Estates Act 66 of 1965 by substituting paragraph (a) .

17 Amends section 102 (1) of the Administration of Estates Act 66 of 1965 , as follows: paragraph (a) substitutes paragraph (e) ; and paragraph (b) substitutes paragraphs (i), (ii), (iii), (iv) and (v).

18 Amends section 103 of the Administration of Estates Act 66 of 1965 by substituting subsections (2) and (3).

19 Amends section 105 (3) of the Administration of Estates Act 66 of 1965 by substituting paragraph (c) .

20 Extension of application of Act 66 of 1965

The principal Act shall, from the date of commencement of this Act, apply throughout the Republic.

21 Amendment or repeal of laws, and savings

(1) Subject to subsection (2), the laws mentioned in the second column of the Schedule are hereby amended or repealed to the extent indicated in the third column of that Schedule.

(2) Notwithstanding the repeal of the laws referred to in subsection (1)-

- (a) (i) the liquidation and distribution of the estate of any person who died before the commencement of this Act, or any matter relating to the liquidation and distribution of such an estate;
- (ii) the administration of the property of any minor or person under curatorship, or any matter relating to the administration of such property;
- (iii) the administration of any derelict estate, or any matter relating to the administration of such derelict estate; or
- (iv) any other matter,

regulated by or under any law repealed by subsection (1), which at the date of commencement of this Act has been dealt with by, under or in terms of any such law, but which has not been concluded, shall in all respects be continued and concluded under such law as if this Act had not been passed;

- (b) any proclamation, notice, regulation, order, determination, decision, direction or authorisation issued, made, taken, given or granted or any other thing done, under a provision of any law repealed by subsection (1), shall continue to be of force and effect, except in so far as it is inconsistent with the principal Act or any regulation made thereunder, until it is withdrawn, cancelled or repealed by the competent authority, where such withdrawal, cancellation or repeal by any authority was possible before the date of commencement of this Act;
- (c) any person who, immediately prior to the commencement of this Act and in terms of any law repealed by subsection (1)-
 - (i) holds office as Master, Deputy Master or Assistant Master of a

High Court, shall be deemed to have been appointed as Master, Deputy Master or Assistant Master in terms of the corresponding provisions of the principal Act at the place where he or she holds such office;

- (ii) holds office as appraiser, shall be deemed to hold such office in terms of the corresponding provisions of the principal Act, and it shall not be necessary for him or her, if he or she has already taken an oath, to take any further oath under section 6 (2) of the principal Act;
 - (iii) holds office as executor, tutor, curator or interim curator, shall be deemed to hold such office in terms of the corresponding provisions of the principal Act and shall continue to hold such office until he or she is removed or discharged from that office under such law; or
 - (iv) holds any other office, shall be deemed to hold such office in terms of the corresponding provisions of the principal Act and shall continue to hold such office until the appointment to that office is withdrawn or cancelled by the Minister, the Master having jurisdiction or the person who made such appointment or until the matter in respect of which the appointment was made, has been concluded; and
- (d) any office of a Master which, immediately prior to the commencement of this Act, was established under, and functioning in accordance with, any law repealed by subsection (1), shall be deemed to have been established under the corresponding provisions of the principal Act and shall continue to function in accordance with the principal Act: Provided that the Minister may direct that any such office shall be converted into, and function as, a sub-office of the office of a Master of a High Court designated by the Minister.

(3) The Minister may direct that any person who, at the commencement of this Act, holds office or is deemed to hold office as Master, Deputy Master or Assistant Master of a High Court in terms of the principal Act shall, for such period as the Minister may determine, exercise the powers, perform the functions and carry out the duties conferred upon, assigned to or imposed upon him or her by or under the principal Act or any other law, subject to the control, direction and supervision of another Master of a High Court designated by the Minister.

(4) Notwithstanding Chapter V of the principal Act, the Minister may direct that a Master of a High Court shall, for such period as the Minister may determine, exercise the powers, perform the functions and carry out the duties in respect of his or her guardian's fund conferred upon, assigned to or imposed upon him or her by or under the principal Act or any other law, subject to the control, direction and supervision of another Master of a High Court designated by the Minister.

(5) The Minister must publish, by notice in the *Gazette*, any steps taken by him or her in terms of subsection (2) (d), (3) or (4).

(6) In this section a word or expression to which a meaning has been assigned in the principal Act, bears that meaning unless the context otherwise indicates.

22 Interpretation of certain references in existing laws and in other documents

A reference in any law in force immediately prior to the commencement of this Act or in any document to a Master, Deputy Master or Assistant Master of the Supreme Court

shall, unless inconsistent with the context or otherwise clearly inappropriate, be construed as a reference to a Master, Deputy Master or Assistant Master of a High Court.

23 Short title and commencement

This Act is called the Administration of Estates Laws Interim Rationalisation Act, 2001.

Schedule

(Section 21)

No and year of Act	Short title	Extent of amendment or repeal
Act 24 of 1936	Insolvency Act, 1936	<p>(a) Amendment of section 52 by the substitution for subsection (3) of the following subsection:</p> <p>'(3) The vote of a creditor shall in co case be reckoned in number, unless his or her claim is of the value of at least R1 000.'</p> <p>(b) Amendment of section 55 by the substitution for paragraph (i) of the following paragraph:</p> <p>' (i) Any person who has at any time been convicted (whether in the Republic or elsewhere) of theft, fraud, forgery or uttering a forged document, or perjury and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding R2 000;'</p> <p>(c) Amendment of section 78 by the substitution for subsection (1) of the following subsection:</p> <p>'(1) The trustee may accept from a debtor of the insolvent estate who is unable to pay his or her debt in full, any reasonable part of the debt in discharge of the whole debt or grant any debtor of the estate an extension of time for the payment of his or her debt in so far as this is compatible with section 91: Provided that if the debt exceeds R2 000, the trustee shall not accept a part of the debt in discharge of the whole debt, unless he or she has been authorised thereto by the creditor has proved a claim against the estate, by the Master.'</p>
Act 66 of 1965 (Transkei)	Administration of Estates Act, 1965	The whole
Act 66 of 1965 (Bophuthatswana)	Administration of Estates Act, 1965	The whole
Act 66 of 1965 (Venda)	Administration of Estates Act, 1965	The whole

Act 66 of 1965 (Ciskei)	Administration of Estates Act, 1965	The whole
Act 57 of 1972	Age of Majority Act, 1972	Amendment of section 3 by the substitution for paragraph (f) of the following paragraph: ' (f) full particulars of any movable or immovable property of which he or she is the owner and which in terms of any will or any other instrument is subject to a fideicommissum, usufruct or similar right, or which at the time of the application is subject to the control of the Master, a tutor or curator as defined in section 1 of the Administration of Estates Act, 1965 (Act 66 of 1965).'.