

B U I T E N G E W O N E

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA.

OFFICIAL GAZETTE



EXTRAORDINARY
OF SOUTH WEST AFRICA.

UITGAWE OP GESAG.

PUBLISHED BY AUTHORITY.

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Die volgende Ontwerpordonnansie, wat gedurende die volgende Sessie van die Wetgewende Vergadering ingedien sal word, word vir algemene inligting gepubliseer.

C. F. MARAIS,
Sekretaris van Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

The following Draft Ordinance, which will be introduced during the next Session of the Legislative Assembly, is published for general information.

C. F. MARAIS,
Secretary for South West Africa.

Administrator's Office,
Windhoek.

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ONTWERPORDONNANSIE

Om voorsiening te maak vir die instelling van 'n raad met bevoegdheid om uit staatsgelde aan sekere boere of aan persone wat van hulle afhanklik is geld voor te skiet, om bates van sodanige boere oor te neem, om sodanige bates te verhuur of weer te verkoop, om 'n skikking tussen sodanige boere en hul skuldeisers teweeg te bring, om voorsiening te maak vir die opskorting of vernietiging van sekere vorderings teen sodanige boere, vir die verkiesing of aanstelling van beredderaars of kuratore om die sake van sodanige boere te vereffen en vir verskeie sake wat met die bogenoemde aangeleent-here in verband staan.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Staatspresident dermate sodanige toestemming nodig is vooraf verkreeë en deur boodskap van die Administrateur aan die Wetgewende Vergadering meegedeel ooreenkomstig die bepalings van artikel *ses-en-twintig* van die Zuidwest-Afrika Konstitusie Wet 1925 (Wet 42 van 1925) soos gewysig by artikel *sestien* van die Wysigingswet op Aangeleenthede van Suidwes-Afrika 1949 (Wet 23 van 1949) van die Republiek van Suid-Afrika, VERORDEN: —

1. Tensy uit die samehang anders blyk, beteken in hierdie ordonnansie —

- (i) „applikant”, al na die samehang, iemand —
 - (a) wat aansoek gedoen het om hulp ingevolge hierdie ordonnansie: of
 - (b) aan wie die raad sodanige hulp verleen het; of
 - (c) ten behoeve van wie die raad 'n skikking teweeggebring het; of
 - (d) wie se goedere deur die raad oorgeneem is;
 - (i)
- (ii) „beredderaar” iemand wat ingevolge artikel *vyftien* as sodanig gekies of aangestel is; (vii)
- (iii) „boer” iemand wat, na die raad meen, onder gewone omstandighede sy enigste of vernaamste lewensonderhoud maak uit boerdery wat hy in die Gebied beoefen, maar sluit dit 'n huurder soos bepaal in artikel *twee* van die Landnedersetting

DRAFT ORDINANCE

To provide for the establishment of a board with powers to advance moneys from public funds to certain farmers, or their dependants, to acquire assets belonging to such farmers, to let or re-sell such assets, to effect a compromise between such farmers and their creditors, to provide for the suspension or cancellation of certain claims against such farmers, for the election or appointment of liquidators or trustees to wind up the affairs of such farmers and for various incidental to the aforesaid provisions.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President, in so far as such consent is necessary previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section *twenty-six* of the South West Africa Constitution Act, 1925 (Act 42 of 1925), as amended by section *sixteen* of the South West Africa Affairs Amendment Act, 1949 (Act 23 of 1949) of the Republic of South Africa, as follows:

1. In this Ordinance unless inconsistent with the context —

- (i) “applicant” means, according to the context, a person
 - (a) who has applied for assistance under this Ordinance; or
 - (b) to whom the board has granted such assistance; or
 - (c) on whose behalf the board has effected a compromise; or
 - (d) whose property has been acquired by the board; (i)
- (ii) “board” means the board appointed in terms of section *two*; (viii)
- (iii) “child” includes a stepchild, an adopted child, a son-in-law and a daughter-in-law, and “parent” has a corresponding meaning; (v)

- Gekonsolideerde en Wysigings Proklamasie 1927 (Unieproklamasie 310 van 1927) soos gewysig, uit; (v)
- (iv) „Insolvensiewet” die Insolvensiewet 1936 (Wet 24 van 1936) soos gewysig en op die Gebied toegepas by Wet 16 van 1943 en Proklamasie 112 van 1943 (Unie); (vi)
- (v) „kind” ook ’n stiefkind, ’n aangenome kind, ’n skoonseun en ’n skoonogter, en het „ouer” ’n ooreenstemmende betekenis; (iii)
- (vi) „kurator” iemand wat ingevolge artikel *sestien* as sodanig gekies of aangestel is; (xii)
- (vii) „landdros” ook ’n addisionele landdros en ’n assistentlanddros; (viii)
- (viii) „raad” die raad wat ingevolge artikel *twee* ingestel is; (ii)
- (ix) „Sekretaris” die Sekretaris van Suidwes-Afrika; (xi)
- (x) „skikking” ’n voorstel bedoel in subartikel (4) van artikel *twaalf* wat deur die skuldeisers van die betrokke applikant aangeneem is of wat ingevolge subartikel (5) van daardie artikel beskou word as deur hulle aangeneem; (iv)
- (xi) „voorsittende beampte” in verband met ’n vergadering die landdros voor wie so ’n vergadering gehou word; (x)
- (xii) „Weesheer” die Weesheer van die Suidwes-Afrika afdeling van die Hooggeregshof en sluit dit enige beampte in sy kantoor in aan wie hy enige van sy funksies ingevolge hierdie ordonnansie opgedra het. (ix)
- (iv) “compromise” means a proposal mentioned in sub-section (4) of section *twelve* which has been accepted by the creditors of the applicant in question or is deemed to have been accepted by them in terms of sub-section (5) of that section; (x)
- (v) “farmer” means a person who in the opinion of the board normally derives his sole or principal means of livelihood from farming carried on by him within the Territory, but shall not include a lessee as defined in section two of the Land Settlement Consolidation and Amendment Proclamation, 1927 (Union Proclamation 310 of 1927), as amended; (iii)
- (vi) “Insolvency Act” means the Insolvency Act, 1936 (Act 24 of 1936), as amended and applied to the Territory by Act 16 of 1943 and Proclamation 112 of 1943 (Union); (iv)
- (vii) “liquidator” means the person elected or appointed as such in terms of section *fifteen*; (ii)
- (viii) “magistrate” includes an additional magistrate and an assistant magistrate; (vi)
- (ix) “Master” means the Master of the South West Africa Division of the Supreme Court, and includes any officer in his office to whom he has delegated any of his functions under this Ordinance; (xii)
- (x) “presiding officer” in relation to any meeting means the magistrate before whom such meeting is held; (xi)
- (xi) “Secretary” means the Secretary for South West Africa; (ix)
- (xii) “trustee” means the person elected or appointed as such in terms of section *sixteen*. (vi)

2. (1) Sodra doenlik na die inwerkingtreding van hierdie ordonnansie stel die Administrateur minstens drie persone aan as ’n raad met die naam die Boerebystandsraad teen die besoldiging, met die toelaes en op die diensvoorwaardes wat hy bepaal.

(2) Die Administrateur benoem een lid as voorsitter en een lid as ondervoorsitter van die raad.

(3) Die raad vergader wanneer hy deur die voorsitter of die Administrateur byeengeroep word.

(4) ’n Besluit deur die meerderheid van die lede van die raad of deur die meerderheid van die lede wat teenwoordig is op ’n vergadering van die raad waarop twee of meer lede aanwesig is, is ’n besluit van die raad.

(5) Die raad verrig die werksaamhede wat hierdie ordonnansie aan hom opdra en oefen die bevoegdhede uit wat hierdie ordonnansie aan hom verleen, en verrig die ander werksaamhede wat die Administrateur van tyd tot tyd aan hom opdra.

(6) ’n Dokument wat voorgee dat dit deur die voorsitter of ondervoorsitter van die raad geteken is, en wat ’n bewering bevat dat die raad ’n daarinvermelde besluit geneem het, strek behoudens teenbewys tot bewys dat die raad so ’n besluit geneem het.

3. Alle uitgawes wat die raad ingevolge hierdie ordonnansie aangaan, word bestry uit gelde wat die Wetgewende Vergadering vir daardie doel bewillig het.

4. (1) Alle administratiewe werk met inbegrip van alle uitbetalings van geld in verband met die werksaamhede van die raad word, tensy hierdie ordonnansie anders bepaal, verrig deur die Sekretaris: Met dien verstande dat die bedoelde beampte geen werk mag verrig nie in verband met enige handeling wat in ’n aktekantoor verrig moet word, wat ingevolge die Registrasie van Aktes Proklamasie 1939 (Proklamasie 37 van 1939) of die regulasies daar kragtens uitgevaardig deur ’n transportbesorger verrig moet word.

(2) Met die goedkeuring van die Administrateur kan die Sekretaris enige van sy magte of werksaamhede ingevolge hierdie ordonnansie aan enige beampte in die diens van die Administrasie opdra.

(3) Enigiets gedoen deur so ’n beampte uit hoofde van ’n aldus opgedrae mag of werksaamheid word beskou as gedoen deur die Sekretaris.

2. (1) As soon as may be after the commencement of this Ordinance the Administrator shall appoint at such remuneration and allowances and on such conditions of service as he may determine, not less than three persons, to form a board to be known as the Farmers' Assistance Board.

(2) The Administrator shall designate one member as chairman and one member as deputy-chairman of the board.

(3) The board shall meet when summoned by the chairman or the Administrator.

(4) A decision of the majority of the members of the board or of the majority of the members present at a meeting of the board attended by two or more members, shall be a decision of the board.

(5) The board shall perform the duties imposed and exercise the powers conferred upon it by this Ordinance, and shall perform such other duties as the Administrator may from time to time assign to it.

(6) A document purporting to have been signed by the chairman or deputy-chairman of the board, which contains an allegation that the board arrived at any decision mentioned in that document, shall in the absence of proof to the contrary, be proof that the board arrived at such decision.

3. All expenditure which the board incurs under this Ordinance shall be defrayed from moneys appropriated by the Legislative Assembly for the purpose.

4. (1) All administrative work, including all payments of money, in connection with the functions of the board shall, except where otherwise provided in this Ordinance, be performed by the Secretary: Provided that the said officer shall not carry out any work in connection with any act to be performed in a deeds registry which must in terms of the Deeds Registry Proclamation, 1939 (Proclamation 37 of 1939), or the regulations made thereunder, be carried out by a conveyancer.

(2) With the approval of the Administrator the Secretary may delegate any of his powers or functions under this Ordinance to any officer in the employ of the Administration.

(3) Anything done by any such officer under any power or function so delegated shall be deemed to have been done by the Secretary.

(4) Die Sekretaris kan enige sodanige opdrag van 'n mag of werksaamheid te eniger tyd intrek.

5. Elke boer —

- (a) wie se skulde groter is as die redelike waarde van sy bates; of
- (b) teen wie een of meer van sy skuldeisers stappe gedoen het of gedreig het om te doen wat dit vir hom ondoenlik gemaak het of sal maak om sy boerdery met 'n redelike vooruitsig op welslae voort te sit; of
- (c) wat weens die omvang of aard van sy verpligtings of weens die gebrek aan vee of die middele om sy grond behoorlik te bewerk, nie in staat is om sy boerdery met 'n redelike vooruitsig op welslae voort te sit nie; of
- (d) wie se boedel voorlopig of finaal gesekwestreer is ingevolge die Insolvensiewet;

kan by die raad aansoek doen om bystand ingevolge hierdie ordonnansie, en die weduwee, wewenaar of kind van 'n oorlede boer wat, as hy nog geleef het, geregtig sou gewees het om so 'n aansoek te doen, kan ook so 'n aansoek doen.

6. Elke aansoek om bystand ingevolge hierdie ordonnansie moet gedoen word in die vorm van 'n beëdigde verklaring deur die raad voorgeskryf waarin die redes vir die aansoek volledig vermeld moet word en waarin aangegee moet word alle bates en alle regte op bates, hetsy reeds verkry of voorwaardelik, van die applikant en sy waardering daarvan, elke skuld hoegenaamd, hetsy reeds opeisbaar of voorwaardelik, van die applikant, die naam en adres van die persoon aan wie dit verskuldig is, die wyse waarop en die tyd wanneer die skuld aangegaan is, asook sodanige nadere inligting soos die raad vereis.

7. (1) Enige prosedure wat in 'n hof teen 'n applikant ingestel is tot verhaal van 'n bedrag deur hom verskuldig of tot beslaglegging op, of verkoop van, bates wat aan hom behoort, ter uitvoering van 'n vonnis van daardie hof word opgeskort deur die indiening, by daardie hof, van 'n sertifikaat, geteken deur die voorsitter of ondervoorsitter van die raad, waaruit blyk dat die betrokke boer by die raad aansoek gedoen het om bystand ingevolge hierdie ordonnansie en dat dit aan die voorsitter of ondervoorsitter *prima facie* voorkom dat daar 'n redelike vooruitsig bestaan dat die raad aan die applikant bystand sal verleen.

(2) As —

- (a) die raad die aansoek van die applikant van die hand wys;
- (b) die verrigtings ingevolge hierdie ordonnansie ten opsigte van die applikant tot niet word ingevolge hierdie ordonnansie;
- (c) die raad bystand aan die applikant verleen op enige wyse in artikel *nege* beoog; of
- (d) 'n skikking met die skuldeisers van die applikant tot stand kom ingevolge hierdie ordonnansie,

verval bedoelde sertifikaat en kan, behoudens die bepalinge van artikel *twaalf*, die prosedure in subartikel (1) vermeld, voortgesit word.

8. By ontvangs van 'n aansoek in artikel *ses* vermeld, kan die raad na die ondersoek wat hy nodig ag, binne die bepalinge van hierdie ordonnansie op 'n wyse en in 'n mate wat hy wenslik ag aan die applikant of aan sy eggenote of haar eggenoot of kind bystand verleen as die raad oortuig is dat die betrokke persoon daardeur in staat gestel sal word om te boer met 'n redelike vooruitsig op welslae, of die raad kan die aansoek van die hand wys sonder om enige rede daarvoor aan te gee.

9. Om uitvoering te gee aan die bepalinge van hierdie ordonnansie kan die raad een of meer van die volgende doen: —

- (a) aan 'n applikant teen 'n verband op al sy onroerende goedere of enige deel daarvan geld leen op die voorwaardes wat die raad wenslik ag;
- (b) al die roerende of onroerende goedere of enige deel daarvan wat aan 'n applikant of aan sy insolvente boedel of aan die boedel van die oorlede eggenoot of eggenote, kind of ouer van die applikant behoort, oorneem;

(4) Any such delegation of a power or function may at any time be withdrawn by the Secretary.

5. Any farmer —

- (a) whose liabilities exceed the reasonable value of his assets; or
- (b) against whom one or more of his creditors have taken or threatened to take action which has made or will make it impracticable for him to continue farming with a reasonable prospect of success; or
- (c) by reason of the extent or nature of his obligations or owing to lack of stock or the means of properly working his land, is unable to continue farming operations with a reasonable prospect of success; or
- (d) whose estate has been placed under provisional or final sequestration under the Insolvency Act;

may make application to the board for assistance under this Ordinance, and the widow, widower or child of a deceased farmer who, if he were alive, would be entitled to make such an application, may also make such an application.

6. Every application for assistance under this Ordinance shall be in the form of an affidavit prescribed by the board, which shall set forth fully the reasons for the application and disclose every asset and every right to an asset, whether accrued or contingent of the applicant and his valuation thereof; every liability, of whatsoever kind whether already due or contingent of the applicant, the name and address of the person to whom it is owing, the manner in which and the time when it was incurred and such further information as the board may require.

(7) (1) Any proceedings instituted in any court against an applicant for the recovery of any debt due by him or for the attachment or sale of any assets belonging to him, in execution of a judgment of such court shall be stayed, by the filing in such court, of a certificate signed by the chairman or deputy-chairman of the board to the effect that the said applicant has applied to the board for assistance under this Ordinance and that it appears to the chairman or deputy-chairman, *prima facie*, that there is a reasonable prospect that the board will grant the applicant assistance.

(2) If —

- (a) the board refuses the application of the applicant;
- (b) the proceedings in terms of this Ordinance in respect of the applicant fall away in terms of this Ordinance;
- (c) the board renders assistance to the applicant in any manner contemplated in section *nine*; or
- (d) a compromise is in terms of this Ordinance effected with the creditors of the applicant,

the said certificate shall lapse and the proceedings mentioned in sub-section (1) may, subject to the provisions of section *twelve*, be continued.

8. On the receipt of an application mentioned in section *six* the board may after such enquiry as it may deem necessary, within the provisions of this Ordinance assist the applicant or his or her spouse or child in such manner and to such extent as it may deem fit, if it is satisfied that by so doing the person to be assisted will be able to carry on farming operations with a reasonable prospect of success, or it may refuse the application without stating any reason for such refusal.

9. For the purpose of carrying out the provisions of this Ordinance the board may perform any one or more of the following acts:

- (a) on such terms as it may deem fit, lend money to an applicant on a mortgage of the whole or any part of his immovable property;
- (b) acquire the whole or any part of the movable or immovable property belonging to an applicant or to his insolvent estate, or to the estate of the deceased spouse, child or parent of the applicant;

- (c) enige goedere wat hy aldus oorgeneem het, aan die betrokke applikant of aan sy of haar eggenote of eggenoot, kind of ouer of aan 'n ander persoon verhuur of verkoop en wel op die voorwaardes wat die raad wenslik ag;
- (d) enige vee of ander boerderybenodighede aanskaf en dit op die voorwaardes wat hy wenslik ag, verhuur of verkoop aan die applikant of aan iemand aan wie die raad ingevolge paragraaf (c) goedere verhuur of verkoop het, of, op die voorwaardes wat hy wenslik ag, aan die applikant of so iemand geldelike hulp verleen vir die aankoop van vee of ander boerderybenodighede of vir die aanbring van verbeterings vir boerderydoeleindes, as die raad meen dat sodanige vee, ander boerderybenodighede of verbeterings nodig is om die applikant of so iemand anders in staat te stel om boerderybedrywighede voort te sit en dat daar 'n redelike vooruitsig is dat hy dit met welslae sal kan doen as sodanige vee of ander boerderybenodighede aan hom verskaf word, of hy dit koop, of sodanige verbeterings aangebring word:

Met dien verstande dat geen goedere ingevolge paragraaf (c) of (d) verkoop en geen geldelike hulp ingevolge paragraaf (d) verleen mag word aan 'n applikant wat 'n ongerehabiliteerde insolvente persoon is nie: En met dien verstande voorts dat geen goedere ingevolge enige van die genoemde paragrawe aan so 'n applikant verhuur mag word sonder die toestemming van die kurator van sy insolvente boedel nie.

10. (1) As die raad meen dat dit wenslik is ten einde 'n applikant (behalwe 'n applikant wie se boedel ingevolge die Insolvensiewet gesekwestreer is) in staat te stel om sy boerdery met 'n redelike vooruitsig op welslae voort te sit, dat daar 'n reëling met sy skuldeisers getref word waarvolgens hulle hom van 'n deel van sy skulde onthef of hom uitstel van betaling van sy skulde toestaan, dan kan die raad, na beraadslaging met die applikant, deur kennisgewing in die *Offisiële Koerant* en in 'n nuusblad wat omloop in die gebied waarin die applikant gewoonlik woon, 'n vergadering van die applikant en van sy skuldeisers belê met die doel om hul vorderings teen hom te bewys en om 'n voorstel tot 'n reëling, soos voormeld, te oorweeg.

(2) So 'n kennisgewing moet die plek waar, en die tyd wanneer, die vergadering gehou sal word, aangee en moet, soos voormeld, gepubliseer word minstens ses weke voor die datum waarop die vergadering gehou gaan word.

(3) Die vergadering word belê by die kantoor van die landdros van die distrik waarin die applikant woonagtig is, of, as hy woonagtig is in 'n gebied ten opsigte waarvan 'n addisionele landdros of 'n assistent-landdros permanent op 'n ander plek as die landdrossetel van 'n distrik die werksaamhede van 'n landdros verrig, by die kantoor van sodanige addisionele landdros of assistent-landdros.

(4) Die raad stuur 'n afskrif van die voormelde kennisgewing aan die beampte by wie se kantoor die vergadering gehou gaan word en aan die Registrateur van Aktes wanneer enige bates in die aansoek van die applikant vermeld in sy kantoor geregistreer is. By aantekening van sodanige kennisgewing in sy kantoor laat die bedoelde Registrateur geen verdere verhandelings met sodanige bates toe sonder die skriftelike toestemming van die raad nie.

(5) Die raad stuur aan die beampte by wie se kantoor die vergadering gehou gaan word 'n afskrif van die applikant se aansoek en sodanige afskrif moet gedurende 'n tydperk van minstens veertien dae gedurende kantoorure kosteloos ter insae beskikbaar wees aan elke skuld-eiser en skuldenaar van die applikant.

(6) Sodra doenlik na die publikasie van die bedoelde kennisgewing moet die raad 'n afskrif daarvan tesame met besonderhede van enige reëling wat ingevolge sub-artikel (4) van artikel *twaalf* voorgestel gaan word, aan die applikant en aan elke skuld-eiser in die aansoek vermeld, oorhandig of per pos stuur na die betrokke adres in die aansoek vermeld, maar versuim om sodanige afskrif of besonderhede aldus te oorhandig of te stuur, maak die verrigtings ingevolge hierdie ordonnansie nie ongeldig nie.

(c) upon such terms as it may deem fit, let or sell any property so acquired, to the applicant in question or to his or her spouse, child or parent or to any other person;

(d) acquire any livestock or other farming requisites and let or sell them, on such terms as it may deem fit, to the applicant or to any person to whom the board has let or sold any property in terms of paragraph (c), or, on such terms as it may deem fit, render financial assistance to the applicant or any such person for the purchase of livestock or other farming requisites or for the making of improvements for farming purposes, if the board is of the opinion that such livestock, other farming requisites or improvements are necessary to enable the applicant or such other person to carry on farming operations and that there is a reasonable prospect that he will be able to do so successfully if he is furnished with or purchases such livestock or other farming requisites or such improvements are made:

Provided that no property shall be sold under paragraph (c) or (d) and no financial assistance rendered under paragraph (d) to an applicant who is an unrehabilitated insolvent and provided further that no property shall be let under either such paragraph to such an applicant without the consent of the trustee in his insolvent estate.

10. (1) If the board is of the opinion that in order to enable an applicant (other than an applicant whose estate has been sequestrated under the Insolvency Act) to carry on farming with a reasonable prospect of success, it is desirable that an arrangement be effected with his creditors, whereunder they relieve him of part of his liabilities or grant him an extension of time for payment of his liabilities, the board may, after consultation with the applicant, by notice in the *Official Gazette* and in a newspaper circulating in the area in which the applicant ordinarily resides, call a meeting of the applicant and his creditors for the purpose of proving their claims against him and of considering any suggestions for such an arrangement as aforesaid.

(2) Such notice shall state the place where and the time when the meeting is to be held and shall be published as aforesaid not later than six weeks before the date on which the meeting is to be held.

(3) The meeting shall be convened at the office of the magistrate of the district in which the applicant resides or, if he resides in an area in respect of which an additional or assistant magistrate permanently carries out the functions of a magistrate at a place other than the seat of magistracy of a district, at the office of such additional or assistant magistrate.

(4) The board shall forward a copy of the said notice to the officer in whose office the meeting is to be held and to the Registrar of Deeds when any assets mentioned in the application of the applicant are registered in his office. Upon the recording of such notice in his office the said Registrar shall permit no further dealings with such assets without the written consent of the board.

(5) The board shall forward to the officer at whose office the meeting is to be held a copy of the application of the applicant, and such copy shall during a period of not less than fourteen days be available for inspection, free of charge, during office hours, to every creditor and debtor of the applicant.

(6) As soon as may be after the publication of the said notice the board shall deliver or send by post at the address in question mentioned in the application to the applicant and to every creditor disclosed in the application, a copy of the said notice together with particulars of any arrangement which is to be proposed in terms of sub-section (4) of section *twelve*, but a failure so to deliver or send any such copy or particulars shall not invalidate the proceedings under this Ordinance.

11. (1) Vanaf die indiening van 'n sertifikaat by 'n hof ingevolge subartikel (1) van artikel *sewe* of, as geen sertifikaat ten opsigte van 'n applikant aldus ingedien is nie, vanaf die publikasie van 'n kennisgewing ten opsigte van hom ingevolge subartikel (1) van artikel *tien* en totdat die verrigtings ingevolge hierdie ordonnansie ten opsigte van die betrokke applikant tot niet geword het of 'n skikking met sy skuldeisers tot stand gekom het ingevolge hierdie ordonnansie —

- (a) mag niemand goedere van die betrokke applikant waarop beslag gelê is ter uitvoering van 'n vonnis van 'n hof verkoop nie, tensy hy van die indiening van die sertifikaat of die publikasie van die kennisgewing, na gelang, onbewus is en redelikerwys nie ver wag kan word om daarvan te weet nie;
- (b) mag die betrokke applikant geen van sy skulde betaal en geen van sy bates van die hand sit of beswaar nie, behalwe met die skriftelike toestemming van die raad; en
- (c) mag geen skuldeiser van die betrokke applikant in 'n hof 'n geding instel nie om die applikant se boedel te sekwestreer of om die betaling van 'n skuld deur hom verskuldig, af te dwing nie.

(2) Na die indiening van so 'n sertifikaat of die publikasie van so 'n kennisgewing, na gelang, moet iemand wat belas is met die tenuitvoerlegging van 'n vonnis van 'n hof teen die betrokke applikant tot betaling van 'n skuld deur hom verskuldig, die opbrengs van 'n verkoping in die tenuitvoerlegging van sodanige vonnis, wat in sy besit was op die datum van die indiening van sodanige sertifikaat of die publikasie van sodanige kennisgewing, of wat te eniger tyd daarna in sy besit gekom het, betaal aan die beredderaar of kurator van die applikant of, as die verrigtings ingevolge hierdie ordonnansie ten opsigte van die applikant tot niet geword het, aan die persoon wat kragtens die vonnis daarop geregtig is: Met dien verstande dat so iemand nie aanspreeklik is weens versuim om sodanige opbrengs aan sodanige beredderaar of kurator te betaal nie, as hy dit betaal het aan die persoon wat daarop geregtig sou gewees het as die bedoelde sertifikaat nie ingedien was nie of die bedoelde kennisgewing nie gepubliseer was nie en hy van die indiening van die sertifikaat of die publikasie van die kennisgewing onbewus was en redelikerwys nie daarvan kor: gewet het nie toe hy sodanige betaling gedoen het.

(3) As die betrokke applikant die eienaar is van onroerende goedere kan die raad onder die handtekening van sy voorsitter of ondervoorsitter die Registrateur van Aktes magtig om op die titelbewys van daardie goedere een of meer van die beperkings te registreer wat ingevolge paragrafe (a) en (b) van subartikel (1) ten opsigte daarvan van toepassing is.

(4) Die Registrateur van Aktes moet aan so 'n magtiging gevolg gee op 'n wyse wat hy as die mees uitvoerbare en die gerieflikste beskou en elke sodanige beperking is daarna geldig en van krag teenoor alle persone.

12. (1) Op 'n vergadering van 'n applikant en sy skuldeisers wat ingevolg artikel *tien* belê is, is die landdros by wie se kantoor die vergadering belê is, die voorsitter, en hy kan van tyd tot tyd sodanige vergadering verdaag.

(2) Elke skuldeiser van die applikant kan op so 'n vergadering sy vordering teen die applikant op dieselfde wyse bewys as dié waarop 'n skuldeiser in 'n insolvente boedel sy vordering teen die boedel ingevolge die Insolvensiewet kan bewys, en al die bepalinge van die Insolvensiewet wat betrekking het op 'n persoon wat 'n vordering teen 'n insolvente boedel ingevolge die Insolvensiewet bewys het, of voornemens is om dit te bewys, en op sake wat met dardie vordering in verband staan, is *mutatis mutandis* van toepassing, vir sover hulle toegepas kan word, op 'n persoon wat 'n vordering teen die applikant bewys het of voornemens is om dit te bewys, en op sake wat met daardie vordering in verband staan: Met dien verstande dat as die reëling wat op sodanige vergadering ingevolge subartikel (4) voorgestel gaan word, 'n uitstel van nakoming van al die verpligtings van die applikant teenoor sy skuldeisers beoog, die vorderings teen die applikant soos in sy aansoek vermeld as juis en aldus bewys beskou word tensy die teendeel op die vergadering bewys word.

11. (1) As from the filing of a certificate in a court in terms of sub-section (1) of section *seven* or, if no certificate was so filed in respect of an applicant, as from the publication of a notice in respect of him in terms of sub-section (1) of section *ten*, and until the proceedings in terms of this Ordinance in respect of the applicant in question have fallen away or a compromise has been effected with his creditors in terms of this Ordinance —

- (a) no person shall sell any property of the applicant in question which was attached in execution of a judgment of any court unless he does not know and cannot reasonably be expected to know of the filing of the certificate or the publication of the notice, as the case may be;
- (b) the applicant in question shall not pay any of his debts or dispose of or encumber any of his assets, except with the consent in writing of the board; and
- (c) no creditor of the applicant in question shall institute any proceedings in any court for the sequestration of the applicant's estate or to enforce payment of any debt owing by him.

(2) After the filing of such a certificate or the publication of such a notice, as the case may be, any person charged with the execution of a judgment of any court against the applicant in question for the payment of any debt owing by him, shall pay the proceeds of any sale in the execution of such judgment, which were in his possession on the date of the filing of such certificate or the publication of such notice, or which came into his possession at any time thereafter, to the liquidator or trustee of the applicant or, if the proceedings in terms of this Ordinance in respect of the applicant have fallen away, to the person entitled thereto under the judgment: Provided that such person shall not be liable for a failure to pay over such proceeds to such liquidator or trustee, if he paid them over to the person who would have been entitled thereto if the said certificate had not been filed or the said notice had not been published, and he did not know and could not reasonably have known of the filing of such certificate or the publication of such notice at the time when he made such payment.

(3) If the applicant in question is the owner of immovable property the board may under the hand of its chairman or deputy-chairman authorize the Registrar of Deeds to register against the title deed of that property any one or more of the restrictions which in terms of paragraphs (a) and (b) of sub-section (1) apply in respect of it.

(4) The Registrar of Deeds shall give effect to any such authorization in such manner as may to him appear to be most practicable and convenient, and any such restriction shall thereupon be valid and effective against all persons.

12. (1) At a meeting of an applicant and his creditors convened under section *ten*, the magistrate at whose office the meeting was convened, shall preside and he may from time to time adjourn such meeting.

(2) Any creditor of the applicant may, at such meeting prove his claims against that applicant in the same manner as creditor in an insolvent estate may prove his claim against the estate under the Insolvency Law, and all the provisions of the Insolvency Law relating to a person who has proved or who intends to prove a claim against an insolvent estate under the Insolvency Law and to matters incidental to such claim, shall, *mutatis mutandis* and in so far as they can be applied, apply to a person who has proved or who intends to prove a claim against the applicant, and to matters incidental to such claim: Provided that if the arrangement which is in terms of sub-section (4) to be proposed at such meeting aims at an extension of time for the fulfilment of all the obligations of the applicant towards his creditors, the claims against the applicant as specified in his application shall be regarded as being correct and having been so proved unless the contrary is proved at such meeting.

(3) Al die bepalings van subartikel (2) en (3) van artikel *vier-en-sestig* en van artikels *vyf-en-sestig* en *ses-en-sestig* van die Insolvensiewet is van toepassing in verband met so 'n vergadering asof die applikant ingevolge daardie wet insolvent was en asof die betrokke vergadering 'n vergadering was wat in daardie artikels vermeld word.

(4) Op daardie vergadering kan iemand wat deur die raad daartoe aangestel is, namens die raad enige reëling voorstel waarvolgens daar oor enige bate van die applikant op die bepalings en voorwaardes daarin uiteengesit op 'n bepaalde wyse beskik sal word, of die applikant van enige verpligtings teenoor sy skuldeisers in die geheel of gedeeltelik bevry sal word of daar aan hom uitstel gegee sal word van nakoming van daardie verpligtings.

(5) Die bedoelde voorstel word beskou as aangeneem deur al die skuldeisers van die applikant en verbind (behoudens die bepalings van artikel *veertien*) hulle sowel as hom, hetsy hulle 'n vordering teen die applikant bewys het al dan nie, tensy —

(a) die meerderheid van daardie skuldeisers —

- (i) wie se vorderings ooreenkomstig daardie reëling nie ten volle betaal sal word nie; of
- (ii) wat ooreenkomstig daardie reëling uitstel van nakoming van verpligtings teenoor hulle moet verleen.

en wie se vorderings teen die applikant (afgesien van die bedrag van die vordering van enige sodanige skuldeiser) gesamentlik meer bedra as die helfte van die totaal van alle vorderings wat nie ten volle betaal sal word nie of ten opsigte waarvan uitstel van nakoming van verpligtings verleen moet word; of

(b) enige skuldeiser wie se vordering teen die applikant deur 'n verband, pand of retensiereg verseker is en wat volgens die bedoelde voorstel uitstel van nakoming van verpligtings ten opsigte van sodanige vordering moet verleen of ten opsigte daarvan nie ten volle of tot op 'n bedrag gelyk aan die bedrag waarop hy daardie sekuriteit gewaardeer het toe hy sy vordering bewys het, uitbetaal sal word nie, die voorstel verwerp.

13. (1) As 'n applikant sonder redelike verontskuldiging versuim om 'n vergadering wat ingevolge artikel *tien* belê is, by te woon, of sonder verlof van die voorsittende beampte van so 'n vergadering wegbly, of as die voorsittende beampte op so 'n vergadering gegronde vermoede het dat die applikant met bedrieglike oogmerk of met die doel om een skuldeiser bo 'n ander te bevoordeel, in sy aansoek of op daardie vergadering valse of onvolledige inligting verstrek het of paragraaf (b) van subartikel (1) van artikel *elf* oortree het, moet die voorsittende beampte die vergadering sluit en die saak by die raad aanmeld.

(2) As 'n vergadering ingevolge subartikel (1) gesluit word, word alle verrigtings wat ingevolge hierdie ordonnansie met betrekking tot die applikant geskied het, tot niet. Die raad moet die uitslag van so 'n vergadering by die Registrateur van Aktes aanmeld wat daarop enige beperkings wat ingevolge artikel *elf* op die titelbewys van die applikant se onroerende goedere geregistreer is, moet kanselleer.

(3) As verrigtings ingevolge hierdie ordonnansie ingevolge enige bepaling van hierdie ordonnansie tot niet word, herleef alle regte en verpligtings van die applikant asof geen sodanige verrigtings geskied het nie: Met dien verstande dat die applikant nie daardeur vrygestel word van enige strafregtelike aanspreeklikheid wat hy in die loop van daardie verrigtings opgedoen het nie.

14. (1) Wanneer 'n skikking aangegaan is —

- (a) word die applikant van alle skulde wat in sy aansoek vermeld word, bevry, behalwe vir sover daardie skikking anders bepaal;
- (b) word alle bates wat ooreenkomstig die bedoelde skikking van hom op die raad of op 'n skuldeiser van die applikant oorgaan aan hom onttrek en behoort hulle aan die raad of aan daardie skuldeiser;

(3) All the provisions of sub-section (2) and (3) of section *sixty-four* and of sections *sixty-five* and *sixty-six* of the Insolvency Act shall apply in connection with any such meeting as if the applicant were an insolvent in terms of that Act and as if the meeting in question were a meeting mentioned in those sections.

(4) At such meeting any person appointed by the board for the purpose may, on behalf of the board, propose any arrangement whereunder on such terms and conditions as may be specified therein any asset of the applicant is to be disposed of in a specified manner or the applicant is to be relieved wholly or in part of any of his obligations towards his creditors or is to be granted an extension of time for the fulfilment of those obligations.

(5) The said proposal shall be deemed to have been accepted by all the creditors of the applicant and shall (subject to the provisions of section *fourteen*) bind them and him, whether they have or have not proved any claim against the applicant, unless —

(a) the majority of those creditors—

- (i) whose claims are, in terms of that arrangement, not to be paid in full; or
- (ii) who, in terms of that arrangement, must grant an extension of time for the fulfilment of obligations towards them,

and whose claims against the applicant (irrespective of the amount of the claim of any such creditor) amount, in the aggregate, to more than half of the aggregate of all claims which are not to be paid in full or in respect of which an extension of time for the fulfilment of obligations must be granted; or

(b) any creditor whose claim against the applicant is secured by a mortgage, pledge or right of retention and who, in terms of the said proposal, must grant an extension of time for the fulfilment of obligations in respect of such claim, or is in respect thereof not to be paid in full or to an amount equal to the value which he placed upon the said security when proving his claim,

reject or rejects the said proposal.

13. (1) If an applicant fails, without reasonable excuse, to attend a meeting convened under section *ten* or without the permission of the presiding officer absents himself from such meeting, or if during the course of such meeting the presiding officer upon reasonable grounds suspects that the applicant has with intent to defraud or to prefer any creditor over any other creditor, given false or incomplete information in his application or at such meeting or has contravened paragraph (b) of sub-section (1) of section *eleven*, the presiding officer shall close the meeting and report the matter to the board.

(2) If a meeting is closed in terms of sub-section (1) any proceedings taken under this Ordinance in regard to the applicant shall fall away. The board shall report the result of such meeting to the Registrar of Deeds who shall thereupon cancel any restrictions registered against the title deed of the applicant's immovable property in terms of section *eleven*.

(3) If any proceedings taken under this Ordinance fall away in terms of any provision of this Ordinance, all rights and liabilities of the applicant shall revive as if no such proceedings had been taken: Provided that the applicant shall not thereby be relieved of any criminal liability which he may have incurred in the course of those proceedings.

14. (1) When a compromise has been effected —

- (a) the applicant shall be relieved of every liability disclosed in his application, except in so far as the said compromise may otherwise provide;
- (b) every asset which is in terms of the said compromise to pass from him to the board or to any creditor of the applicant, shall cease to be vested in him and shall be vested in the board or such creditor;

(c) mag die applikant geen onroerende goedere ver-
vrem of beswaar nie wat ooreenkomstig die be-
doelde skikking sy eiendom bly maar met 'n ver-
band beswaar moet word of onderhewig gemaak
moet word aan enige voorwaarde of beperking
totdat daardie verband gepasseer en geregistreer
is of totdat daardie voorwaarde of bespreking in-
gevolge artikel *twee-en-twintig* op die titelbewys
van sodanige onroerende goedere geregistreer is.

(2) 'n Skuldeiser van 'n applikant wie se vordering
nie in die aansoek van die applikant aangegee is nie en
wat nie betyds van die vergadering van die applikant en
sy skuldeisers, ingevolge artikel *tien belê*, in kennis ge-
stel is om hom in staat te stel om sy vordering op daardie
vergadering te bewys nie, behou sy vorderingsreg
teenoor die applikant maar is nie geregtig om op daardie
skikking inbreuk te maak vir sover dit voorsiening maak
vir die oorgang van bates van die applikant op die raad
of op enige ander skuldeiser van die applikant of vir die
passeer van 'n verbandakte nie.

(3) As 'n skuldeiser van 'n applikant wie se eis in
die aansoek van die applikant aangegee is, of wat op
die vergadering wat ingevolge artikel *tien*, belê is of
enige latere vergadering van skuldeisers die geleentheid
gehad het om sy vordering te bewys, in gebreke ge-
bly het om sy vordering te bewys, dan verval dit, behalwe
vir sover dit verseker is en betaal moet word volgens 'n
skikking wat op die eersgenoemde vergadering aange-
gaan is.

15. (1) Wanneer 'n skikking aangegaan is, kan die
skuldeisers wie se vorderings ooreenkomstig die gemelde
skikking nie ten volle betaal sal word nie, of wat oor-
eenkomstig die bedoelde skikking uitstel van nakoming
van verpligtings teenoor hulle moet verleen, op die ver-
gadering waarop die skikking aangegaan is 'n bered-
derraar kies *mutatis mutandis* ooreenkomstig die bepa-
lings van die Insolvensiewet wat betrekking het op die
verkiesing van 'n kurator.

(2) As die skuldeisers versuim om op die bedoelde
vergadering 'n beredderraar te kies, moet die Weesheer
sodra doenlik na daardie vergadering 'n beredderraar
aanstel.

(3) Behoudens die bepalings van artikel *sewentien*
gaan alle bates van die applikant wat volgens die be-
doelde skikking nie op die raad of op 'n skuldeiser oor-
gaan nie, en nie aan die applikant bly behoort nie, by die
verkiesing of aanstelling van 'n beredderraar oor op die
beredderraar wat moet meehelp om aan die skikking ge-
volg te gee.

16. (1) As 'n voorstel bedoel in subartikel (4) van
artikel *twaalf* op 'n vergadering van die applikant en sy
skuldeisers voorgelê en ingevolge subartikel (5) van
artikel *twaalf* verwerp is, moet die voorsittende beampte
die applikant vra of hy verlang dat sy boedel ooreen-
komstig hierdie artikel behandel word.

(2) As die applikant daardie vraag nie bevestigend
beantwoord nie, word alle verrigtings ingevolge hierdie
ordonnansie met betrekking tot hom gedoen, tot niet.

(3) As die applikant daardie vraag bevestigend be-
antwoord het, kan die skuldeisers van die applikant wat
hul vorderings teen hom op die bedoelde vergadering
bewys het, of wie se vorderings as bewys beskou word,
op daardie vergadering 'n kurator kies en as hulle dit
nie doen nie, moet die Weesheer sodra doenlik na daardie
vergadering 'n kurator aanstel.

(4) Vir die verkiesing van 'n kurator ingevolge sub-
artikel (3) is die bepalings van die Insolvensiewet *muta-
tis mutandis* van toepassing asof die betrokke applikant
insolvent was en die betrokke vergadering 'n vergadering
van skuldeisers ingevolge die Insolvensiewet was.

(5) Na die verkiesing of aanstelling van 'n kurator
hou alle bates van die applikant wat op die dag van
daardie verkiesing of aanstelling aan hom behoort, op
om aan hom te behoort, en gaan hulle (behoudens die
bepalings van artikel *sewentien*) oor op die kurator, al is
hulle nie aan die kurator afgelewer nie, en die applikant
word van alle skulde wat hy voor daardie datum aan-
gegaan het, bevry, maar die applikant word nie as 'n

(c) the applicant shall not dispose of or encumber
any immovable property which, in terms of such
compromise remains his property, but is to be
mortgaged or made subject to any condition or
restriction, until the said mortgage has been pas-
sed and registered or until the said condition or
restriction has been registered against the title
deed to such immovable property in terms of
section *twenty-two*.

(2) A creditor of an applicant whose claim was not
disclosed in the application of the applicant or who
was not informed of the meeting of the applicant and his
creditors, convened under section *ten* in sufficient time
to enable him to prove his claim at such meeting, shall
retain his right of action in respect of such claim against
the applicant, but he shall not be entitled to disturb the
said compromise in so far as it provides for the passing
of any asset from the applicant to the board or to any
other creditor of the applicant or for the passing of any
mortgage bond.

(3) If a creditor of an applicant whose claim was
disclosed in the application of the applicant or who was
at the meeting convened under section *ten*, or at any
subsequent meeting of creditors, afforded an opportunity
to prove his claim, failed to prove his claim, it shall
lapse, except in so far as it is secured and is to be paid
in terms of a compromise effected at such first-men-
tioned meeting.

15. (1) When a compromise has been effected, the
creditors whose claims are not to be paid in full in terms
of the said compromise or who must in terms of such
compromise, grant an extension of time for the fulfilment
of obligations towards them may at the meeting at which
the compromise was effected, elect, *mutatis mutandis*,
in accordance with the provisions of the Insolvency Act
relating to the election of a trustee, a liquidator.

(2) If the creditors fail at the said meeting to elect
a liquidator the Master shall as soon as may be after
such meeting appoint a liquidator.

(3) Subject to the provisions of section *seventeen*
all assets of the applicant which are under the said com-
promise not to vest in the board or in any creditor and
not to remain vested in the applicant, shall on the election
or appointment of a liquidator vest in the liquidator, who
shall assist in giving effect to the said compromise.

16. (1) If a proposal mentioned in sub-section (4)
of section *twelve* has been submitted at a meeting of
the applicant and his creditors and has been rejected
in terms of sub-section (5) of section *twelve*, the pre-
siding officer shall ask the applicant whether he desires
that his estate be dealt with in terms of this section.

(2) If the applicant fails to reply in the affirmative
to such question, all proceedings taken under this Ordi-
nance in regard to him shall fall away.

(3) If the applicant replies in the affirmative to
such question, the creditors of the applicant who proved
their claims against him at the said meeting or whose
claims are regarded as having been proved may at such
meeting elect a trustee and if they fail to do so, the
Master shall, as soon as may be after such meeting, ap-
point a trustee.

(4) For the purposes of the election of a trustee
under sub-section (3) the provisions of the Insolvency
Act shall *mutatis mutandis* apply as if the applicant in
question were an insolvent, and the meeting in question
were a meeting of creditors under the Insolvency Act.

(5) On the election or appointment of a trustee, all
assets belonging to the applicant on the date of such
election or appointment shall cease to be vested in him
and shall, subject to the provisions of section *seventeen*,
be vested in the trustee, although they may not have
been delivered to the trustee, and the applicant shall be
freed from all liabilities which he incurred prior to the
said date, but the applicant shall not be deemed to be

insolvente persoon en sy boedel word nie as gesekwestreer beskou by die toepassing van enige ander wet nie.

17. (1) 'n Beredderaar of kurator mag nie as sodanige optree nie voordat hy sekuriteit ten genoë van die Weesheer gestel het vir die behoorlike verrigting van sy werksaamhede as beredderaar of kurator nie en van die Weesheer 'n sertifikaat ontvang het waaruit blyk dat hy as sodanige gekies of aangestel is en die sekuriteit gestel het wat hierdie subartikel voorskryf.

(2) Wanneer 'n beredderaar of kurator die sertifikaat in subartikel (1) vermeld, ontvang het, het hy met betrekking tot enige saak binne sy bestek al die regte en bevoegdhede en is hy onderhewig aan al die verpligtings wat ingevolge die Insolvensiewet aan 'n kurator opgelê of verleen word, en in die algemeen is die bepaling van die Insolvensiewet *mutatis mutandis* van toepassing vir sover hulle toegepas kan word, asof die bates wat op die beredderaar of kurator oorgegaan het, 'n insolvente boedel was, behalwe vir sover hierdie ordonnansie anders bepaal.

18. Die voorsittende beampte op 'n vergadering wat ingevolge artikel *tien* belê is, moet aan die raad en die Weesheer verslag doen oor die uitslag van sodanige vergadering.

19. (1) Wanneer 'n skikking aangegaan is wat bepaal dat onroerende goedere getranspoteer of met 'n verband beswaar moet word, of dat 'n verband gerojear moet word, moet die raad so spoedig doenlik die Registrateur van Aktes magtig om daardie transport te passeer of om daardie verband te passeer of te rojear, en die bedoelde Registrateur moet aan so 'n skriftelike magtiging wat deur die voorsitter of ondervoorsitter van die raad onderteken is, gevolg gee, alhoewel geen prokurasie, toestemming of ander magtiging aan hom voorgelê word om sodanige transport te passeer of om sodanige verband te passeer of te rojear nie.

(2) Die raad kan te eniger tyd maar voordat onroerende goedere getranspoteer of met 'n verband beswaar of 'n verband gerojear is ooreenkomstig die skikking, die skikking intrek as —

- (a) die raad om enige rede nie in staat is om aan die skikking gevolg te gee nie;
- (b) die raad meen dat die applikant met die opset om te bedrieg of om aan een skuldeiser bo 'n ander voorkeur te verleen, in sy aansoek of op 'n vergadering ingevolge hierdie ordonnansie of by 'n ondersoek ingevolge artikel *agt* valse of onvolledige inligting verstrek het;
- (c) die raad oortuig is dat die applikant die bepaling van paragraaf (b) van subartikel (1) van artikel *elf* oortree het;
- (d) die applikant, hetsy voor of na die aangaan van die skikking hom op 'n wyse gedra het, of iets na die aanvang van die skikking gebeur het wat dit, na die raad meen, onwenslik maak om aan die skikking gevolg te gee;
- (e) die applikant versuim het om 'n bepaling of voorwaarde van die skikking na te kom; of
- (f) in die geval waar die skikking vir die voortsetting van die applikant se boerdery voorsiening maak, die beredderaar iets gedoen of nagelaat het, wat, na die raad meen, die geslaagde voortsetting van sodanige boerdery onredelik strem,

en by sodanige intrekking van die skikking word die verrigtings ingevolge hierdie ordonnansie ten opsigte van die applikant tot niet.

20. Sodra alle onroerende goedere getranspoteer of met 'n verband beswaar is en alle verbande gerojear is en alle sekuriteite verskaf is ooreenkomstig 'n skikking betaal die raad aan die betrokke beredderaar vir besteding ooreenkomstig die skikking die bedrag wat die raad volgens die skikking onderneem het om te betaal ten opsigte van die skulde van die betrokke applikant.

21. (1) As —

- (a) die raad enige onroerende goedere ingevolge hierdie ordonnansie verkoop het; of

an insolvent and his estate shall not be deemed to be under sequestration for the purposes of any other law.

17. (1) A liquidator or trustee shall not act as such before he has given security to the satisfaction of the Master for the proper performance of his duties as liquidator or trustee and has received from the Master a certificate stating that he was elected or appointed as such and has given the security prescribed by this sub-section.

(2) When a liquidator or trustee has received the certificate mentioned in sub-section (1) he shall, in relation to any matter which falls within his purview have all the rights and powers and be subject to all the obligations which are under the Insolvency Act conferred or imposed upon a trustee, and generally all the provisions of the Insolvency Act shall *mutatis mutandis* apply in so far as they can be applied, as if the assets vesting in the liquidator or trustee were an insolvent estate, except in so far as this Ordinance otherwise provides.

18. The officer presiding at any meeting convened in terms of section *ten* shall report to the board and the Master the result of such meeting.

19. (1) When a compromise has been effected in terms whereof any immovable property is to be transferred or mortgaged, or any mortgage bond is to be cancelled, the board shall, as soon as may be, authorize the Registrar of Deeds to pass such transfer or to pass or cancel such mortgage bond, and the said registrar shall act upon any such authorization in writing signed by the chairman or deputy-chairman of the board, notwithstanding that no power of attorney, consent or other authorization to effect such transfer, hypothecation or cancellation is submitted to him.

(2) The board may at any time but before any immovable property has been transferred or mortgaged or any mortgage bond cancelled in terms of the compromise, cancel the compromise if —

- (a) the board is for any reason unable to give effect to the compromise;
- (b) the board is of the opinion that the applicant has with intent to defraud or to prefer any creditor over any other creditor, given false or incomplete information in his application or at any meeting in terms of this Ordinance or at any enquiry in terms of section *eight*;
- (c) the board is satisfied that the applicant has contravened the provisions of paragraph (b) of sub-section (1) of section *eleven*;
- (d) the applicant has, whether before or after the effecting of the compromise, conducted himself in a manner, or anything has happened after the effecting of the compromise, which, in the opinion of the board, makes it undesirable to give effect to the compromise;
- (e) the applicant has failed to comply with any term or condition of the compromise; or
- (f) in the case where the compromise provides for the continuation of the farming operations of the applicant, the liquidator has done or omitted to do anything which, in the opinion of the board, unreasonably impairs the successful continuation of such farming operations,

and upon such cancellation of the compromise the proceedings in terms of this Ordinance in respect of the applicant shall fall away.

20. As soon as every transfer or hypothecation of immovable property and cancellation of all mortgage bonds have been effected and all securities furnished in terms of a compromise, the board shall pay to the liquidator concerned for disposal in terms of the compromise the amount which it undertook to pay in terms of the compromise in respect of the liabilities of the applicant concerned.

21. (1) If —

- (a) the board has sold any immovable property under this Ordinance; or

(b) 'n applikant ooreenkomstig 'n skikking of 'n ooreenkoms met die raad in besit bly van onroerende goedere wat aan hom behoort maar onderhewig aan 'n verband ten gunste van die raad,

(b) an applicant in terms of a compromise or any agreement with the board is to retain any immovable property belonging to him but subject to a mortgage bond in favour of the board,

kan die raad onder die handtekening van sy voorsitter of ondervoorsitter die Registrateur van Aktes magtig om op die titelbewys van daardie goedere een of meer van die volgende voorwaardes of beperkings te registreer, naamlik —

the board may under the hand of its chairman or deputy chairman authorize the Registrar of Deeds to register against the title deed of that property any one or more of the following conditions or restrictions, that is to say:

(i) dat die goedere nie sonder die toestemming van die raad met 'n verband of andersins beswaar mag word nie;

(i) that the property may not be mortgaged or otherwise encumbered except with the consent of the board;

(ii) dat daar nie sonder die toestemming van die raad beslag op gelê mag word nie of nie in eksekusie verkoop mag word nie, behalwe ten behoeve van 'n verbandhouer op sodanige goedere;

(ii) that it may not without the consent of the board, be attached or sold in execution, except at the instance of the holder of a mortgage bond on such property;

(iii) dat as die eienaar van die goedere insolvent gaan, die goedere nie sonder die toestemming van die raad deel uitmaak van die insolvente boedel nie, maar die eiendom van die raad word, en dat die raad na goeddunke daarvoor kan beskik behoudens die regte van 'n verbandhouer op die goedere.

(iii) that if the owner of the property becomes insolvent, the property shall not, without the consent of the board, form part of the insolvent estate but shall become the property of the board and may be dealt with by the board as it may deem fit, subject to the rights of the holder of any mortgage bond thereon.

(2) Die Registrateur van Aktes moet aan daardie magtiging gevolg gee op 'n wyse wat hy as die mees uitvoerbare en die gerieflikste beskou en elke sodanige voorwaarde of beperking is daarna geldig en van krag teen alle persone totdat die goedere aan iemand anders getransporeer word.

(2) The Registrar of Deeds shall give effect to such authorization in such manner as may to him appear to be most practicable and convenient, and any such condition or restriction shall thereupon be valid and effective against all persons until the property is transferred to another person.

(3) Die raad kan op die wyse in subartikel (1) uiteengesit die Registrateur van Aktes magtig om so 'n voorwaarde of beperking to rojeer en die Registrateur moet aan so 'n magtiging gevolg gee.

(3) The board may in the manner set out in sub-section (1) authorize the Registrar of Deeds to cancel any such condition or restriction, and such Registrar shall give effect to such authorization.

22. Geen handeling ingevolge hierdie ordonnansie in verband met 'n applikant maak inbreuk op die aanspreeklikheid van 'n borg vir enige skuld van die applikant behalwe vir sover daardie skuld as gevolg van daardie handeling verminder is nie.

22. No action taken under this Ordinance in connection with an applicant shall affect the liability of a surety for any liability of the applicant, except in so far as that liability was reduced as a result of that action.

23. Geen reg, belasting of gelde is aan die Staat verskuldig op enige dokument wat hierdie ordonnansie voorskryf of in verband met enige handeling of transaksie wat ingevolge hierdie ordonnansie plaasvind nie.

23. No duty, tax or fee shall be payable to the State on any document required, or in connection with any act or transaction performed under this Ordinance.

24. Die verwysing na „die Boere-Bystandswet 1935 (Wet 48 van 1935)” in subartikel (4) van artikel *negen-en-twintig* van die Insolvensiewet moet uitgelê word as 'n wysiging na „die Boerebystandsordonnansie 1962 (Ordonnansie . . . van 1962)”.

24. The reference to “the Farmers' Assistance Act, 1935 (Act 48 of 1935)” in sub-section (4) of section *twenty-nine* of the Insolvency Act shall be construed as a reference to “the Farmers' Assistance Ordinance, 1962 (Ordinance . . . of 1962)”.

25. Hierdie ordonnansie heet die Boerebystandsordonnansie 1962 en tree in werking op 'n datum wat die Administrateur by proklamasie in die *Offisiële Koerant* bepaal.

25. This Ordinance shall be known as the Farmers' Assistance Ordinance, 1962, and shall come into operation upon a date to be fixed by the Administrator by proclamation in the *Official Gazette*.