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REPUBLIEK VAN SUID-AFRIKA

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PROCLAMATION

by the

State President of the Republic of South Africa

No. R. 157, 1985

The State President has, in terms of section 9 of the Currency and Exchanges Act, 1933 (Act 9 of 1933), made the regulations as contained in the Schedule.

SCHEDULE

1. No person shall with effect from 2 September 1985 until 31 December 1985 make any payment to any foreign creditor except payment in a special restricted account as defined in the Exchange Control Regulations promulgated in Government Notice R. 1111 of 1 December 1961 and except payment in respect of—

(a) An agreement entered into by an importer for the importation of goods and services including payments for freight, insurance and other costs relating to such imports;

(b) interest in accordance with a rate and reasonable costs payable on outstanding loans as approved by the Minister of Finance;

(c) bearer bonds issued on behalf of the State including bearer bonds issued on behalf of any State body, organisation or enterprise;

(d) loans guaranteed by a foregn government or an agency of such government;

(e) debts payable to international organisations of the United Nations or the Bank of International Settlement;

(f) obligations of the South African Reserve Bank;

(g) new loans, and interest and costs thereon as approved by the Minister of Finance, granted on or after 2 September 1985 to any person in the Republic and which are not for the replacement of existing loans; or

PROKLAMASIE

van die

Staatspresident van die Republiek van Suid-Afrika

No. R. 157, 1985

Die Staatspresident het kragtens artikel 9 van die Wet op Betaalmiddels en Wisselkoerse, 1933 (Wet 9 van 1933), die regulasies vervat in die Bylae uitgevaardig.

BYLAE

1. Niemand mag met ingang van 2 September 1985 tot 31 Desember 1985 enige betaling aan enige buitelandse skuldeiser maak nie behalwe 'n betaling in 'n spesiale beperkte rekening soos omskryf in die Deviesebeheerregulasies soos uitgevaardig kragtens Goewermentskennisgewing R. 1111 van 1 Desember 1961, en behalwe betaling ten opsigte van—

(a) 'n ooreenkoms aangegaan deur 'n invoerder vir die invoer van goedere en dienste met inbegrip van betaling vir vrag-, assuransie- en ander kostes in verband met sodanige invoere;

(b) rente ooreenkomstig 'n koers en redelike koste betaalbaar op uitstaande lenings soos deur die Minister van Finansies goedgekeur;

(c) toonderskuldbriewe uitgereik ten behoewe van die Staat met inbegrip van toonderskuldbriewe uitgereik ten behoewe van enige Staatsliggaam, -organisasie of -onderneming;

(d) lenings wat deur 'n buitelandse regering of 'n agentskap van sodanige regering gewaarborg is;

(e) skulde betaalbaar aan internasionale organisasies van die Verenigde Nasies of die Bank van Internasionale Verrekening;

(f) verpligtinge van die Suid-Afrikaanse Reserwebank;

(g) nuwe lenings, en rente en kostes daarop soos deur die Minister van Finansies bepaal, op of na 2 September 1985 aan enige persoon in die Republiek verleen en wat nie ter vervanging van 'n bestaande lening is nie; of

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(h) any amount approved in the discretion of the Minister of Finance or a person designated by him for this purpose from an account with a registered financial institution of a person resident outside the Republic.

(i) any payment of a current nature as provided for in the Exchange Control Regulations as promulgated in Government Notice R. 1111 of 1 December 1961.

2. A banking institution which has established or acquired a subsidiary or opened a branch office outside the Republic shall with effect form 2 September 1985 take the necessary steps to freeze the repayment of liabilities of such subsidiary or branch office except in respect of—

(a) the discharge of any liability arising from the realisation of any asset which is held by such subsidiary or branch office outside the Republic; or

(b) any liability of less than 50 000 rand or an equivalent amount in any foreign currency in respect of any single depositor.

3. The Exchange Control Regulations as promulgated in Government Notice R. 1111 of 1 December 1961 are amended with effect form 2 September 1985 as specified in Annexure A.

4. The Minister of Finance or a person designated by him shall be empowered to exempt any person in part or wholly and on the conditions he deems fit from the provisions of these regulations.

5. Any person who contravenes any provisions of regulation 1 or 2 shall be guilty of an offence and liable on conviction to a fine not exceeding R250 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this First day of September, One thousand Nine hundred and Eighty-five.

P. W. BOTHA,

State President.

By Order of the State President-in-Cabinet:

B. J. DU PLESSIS.

Minister of the Cabinet.

J. P. ROUX,

Secretary of the Cabinet.

ANNEXURE A

AMENDMENT OF THE EXCHANGE CONTROL REGULATIONS

The Exchange Control Regulations R. 1111 of 1 December 1961, are hereby amended by—

(a) inserting the following regulation 4A after Regulation 4:

"SPECIAL RESTRICTED ACCOUNTS AND PROHIBITION ON REPAYMENTS OF FOREIGN LIABILITIES

4.A (1) In this regulation 'special restricted account' means an account opened with an authorised dealer for the purposes specified in the succeeding subregulations.

(h) enige bedrag wat na goeddunke deur die Minister van Finansies of 'n persoon deur hom vir die doel aangewys, goedgekeur is uit die rekening by 'n geregistreerde finansiële instelling van 'n persoon wat in die buiteland woonagtig is;

(i) enige betalings van 'n lopende aard soos gemagtig kragtens die bepalings van die Deviesebeheerregulasies soos uitgevaardig by Goewermentskennisgewing R. 1111 van 1 Desember 1961.

2. 'n Bankinstelling wat 'n filiaalmaatskappy gestig of verkry of 'n takkantoor buite die Republiek geopen het, moet met ingang van 2 September 1985 die nodige stappe doen om die terugbetaling van verpligtinge van sodanige filiaal of takkantoor te bevries behalwe ten opsigte van—

(a) die aflossing van enige verpligting wat geskied uit die realisering van enige bate wat sodanige filiaal of takkantoor buite die Republiek hou; of

(b) 'n verpligting van minder as 50 000 rand of 'n gelyke bedrag in 'n vreemde geldeenheid teenoor enige enkele deposant.

3. Die Deviesebeheerregulasies soos uitgevaardig by Goewermentskennisgewing R. 1111 van 1 Desember 1961 word met ingang van 2 September 1985 gewysig soos in Aanhangsel A vermeld.

4. Die Minister van Finansies of 'n persoon deur hom aangewys, word die bevoegdheid verleen om 'n persoon ten dele of in geheel en op die voorwaardes wat hy goeddink van enige van die bepalings van hierdie regulasies vry te stel.

5. Iemand wat 'n bepaling van regulasie 1 of 2 oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R250 000 of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of met beide sodanige boete en sodanige gevangenisstraf.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria, op hede die Eerste dag van September Eenduisend Negehonderd Vyf-en-tagtig.

P. W. BOTHA,

Staatspresident.

Op las van die Staatspresident-in-Kabinet:

B. J. DU PLESSIS,

Minister van die Kabinet.

J. P. ROUX,

Sekretaris van die Kabinet.

AANHANGSEL A

WYSIGING VAN DIE DEVIESEBEHEERREGULASIES

Die Deviesebeheerregulasies R. 1111 van 1 Desember 1961 word hierby gewysig deur—

(a) die invoeging van die volgende regulasie 4A na regulasie 4:

"SPESIALE BEPERKTE REKENINGS EN VERBOD OP TERUGBETALINGS VAN BUITELANDSE VERPLIGTINGE

4.A (1) In hierdie regulasie beteken 'n "spesiale beperkte rekening" 'n rekening wat by 'n gemagtigde handelaar geopen is vir die doeleindes vermeld in die navolgende subregulasies.

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(2) No person shall, without the permission granted by the Treasury or a person authorised by the Treasury and in accordance with such conditions as the Treasury or such authorised person may impose, make a payment to or in favour of a person resident outside the Republic in respect of the repayment of any foreign liability except to make such payment to a special restricted account.

(3) Any payment made to a special restricted account in terms of this regulation shall, to the extent of the sum paid, operate as a valid discharge to the person making payment.

(4) Any interest payable on a credit balance in a special restricted account is calculated at a rate determined by the Treasury.

(5) No sum standing to the credit of a special restricted account shall be dealt with in any way except with permission granted by the Treasury or a person authorised by the Treasury and in accordance with such conditions as the Treasury or such authorised person may impose.

(6) The Treasury or a person authorised by the Treasury may grant exemption from the provisions of this regulation and may authorise the refund to any person of moneys paid by him into a special restricted account and to the extent of such refund no payment shall be deemed to have been made for the purposes of subregulation (3)".

(b) inserting the following regulation 14A after Regulation 14:

"RESTRICTION ON PURCHASE AND SALE OF FINANCIAL RAND

14.A (1) No person shall, without permission granted by the Treasury or a person authorised by the Treasury and in accordance with such conditions as the Treasury or such authorised person may impose, buy, receive, acquire or sell, deliver, dispose of or otherwise deal with any financial rand.

(2) For the purposes of this regulation 'financial rand' means—

(a) the local sale proceeds of South African assets owned by persons resident outside the Republic;

(b) funds so designated by the Treasury or a person authorised by the Treasury"; and

(c) amending regulation 22 of the regulations by substituting for the words "ten thousand" wherever they appear of the words "two hundred and fifty thousand".

(2) Behalwe met die vergunning van die Tesourie of 'n persoon deur die Tesourie gemagtig en ooreenkomstig die voorwaardes wat die Tesourie of die aldus gemagtigde persoon mag stel, mag niemand enige betaling ten opsigte van die terugbetaling van 'n buitelandse verpligting aan of ten gunste van iemand wat buite die Republiek woonagtig is, maak nie behalwe om sodanige betaling in 'n spesiale beperkte rekening te betaal.

(3) Enige inbetaling in 'n spesiale beperkte rekening kragtens hierdie regulasie is vir die betaler daarvan 'n regsgeldige kwyting tot die bedrag van sodanige inbetaling.

(4) Enige rente betaalbaar op 'n kredietsaldo in 'n spesiale beperkte rekening word bereken teen 'n koers wat deur die Tesourie bepaal word.

(5) Behalwe met die vergunning van die Tesourie of 'n persoon deur die Tesourie gemagtig en ooreenkomstig die voorwaardes wat die Tesourie of die aldus gemagtigde persoon mag stel, mag daar op generlei wyse met enige bedrag waarmee die spesiale beperkte rekening gekrediteer is, gehandel word nie.

(6) Die Tesourie of 'n persoon deur die Tesourie gemagtig kan 'n vrystelling toestaan van die bepalings van hierdie regulasie en kan magtiging verleen vir die terugbetaling aan sodanige persoon van gelde wat hy in die spesiale beperkte rekening betaal het en tot die bedrag van sodanige terugbetaling word geag dat geen betaling vir die toepassing van subregulasie (3) gedoen is nie.":

(b) die invoeging van die volgende regulasie 14A na regulasie 14:

"BEPERKING OP DIE KOOP EN VERKOOP VAN FINANSIËLE RAND

14.A (1) Behalwe met die toestemming van die Tesourie of van 'n persoon deur die Tesourie gemagtig, en ooreenkomstig die voorwaardes wat die Tesourie of die aldus gemagtigde persoon mag stel, mag niemand finansiële rand koop, ontvang, verkry of verkoop, lewer of wegdoen of andersins daarmee handel nie.

(2) Vir die toepassing van hierdie regulasie beteken 'finansiële rand'—

(a) die plaaslike verkoopopbrengs van Suid-Afrikaanse bates wat aan persone wat buite die Republiek woonagtig is, behoort het;

(b) fondse wat as sodanig deur die Tesourie of 'n persoon deur die Tesourie gemagtig, aangewys is"; en

(c) regulasie 22 van die regulasies te wysig deur die woord "tienduisend" waar dit ookal mag voorkom in die regulasie met die woorde "tweehonderd-en-vyftigduisend" te vervang.

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