



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 554 Cape Town

22 August 2011

No. 34545

STATE PRESIDENT'S OFFICE

No. 684

22 August 2011

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

No. 14 of 2011: State Liability Amendment Act, 2011 .



AIDS HELPLINE: 0800-123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 21 August 2011)

ACT

To amend the State Liability Act, 1957, so as to regulate the manner in which a final court order sounding in money against the State must be satisfied; and to provide for matters connected therewith.

PARLIAMENT of the Republic of South Africa enacts, as follows:—

Substitution of section 2 of Act 20 of 1957, as amended by section 1 of Act 201 of 1993

1. The following section is hereby substituted for section 2 of the State Liability Act, 1957 (hereinafter referred to as the principal Act):

“Proceedings to be taken against [Minister] executive authority of department concerned

2. (1) In any action or other proceedings instituted by virtue of the provisions of section ~~[one]~~ 1, the [Minister] executive authority of the department concerned [may] must be cited as nominal defendant or respondent.

(2) [For the purposes of subsection (1), ‘Minister’ shall, where appropriate, be interpreted as referring to a member of the Executive Council of a province] The plaintiff or applicant, as the case may be, or his or her legal representative must, within seven days after a summons or notice instituting proceedings and in which the executive authority of a department is cited as nominal defendant or respondent has been issued, serve a copy of that summons or notice on the State Attorney.”

Substitution of section 3 of Act 20 of 1957, as amended by section 36 of Act 9 of 1989 and substituted by section 2 of Act 201 of 1993

2. The following section is hereby substituted for section 3 of the principal Act:

“Satisfaction of [judgment] final court orders sounding in money

3. (1) ~~[No]~~ Subject to subsections (4) to (8), no execution, attachment or like process ~~[shall]~~ for the satisfaction of a final court order sounding in money ~~may~~ be issued against the defendant or respondent in any ~~[such]~~ action or legal proceedings against the State or against any property of the State, but the amount, if any, which may be required to satisfy any ~~[judgment or] final court~~ order given or made against the nominal defendant or respondent in any such action or proceedings ~~[may]~~ **must** be paid ~~[out of the National Revenue Fund or a Provincial Revenue Fund, as the case may be]~~ as contemplated in this section.

(2) The State Attorney or attorney of record appearing on behalf of the department concerned, as the case may be, must, within seven days after a court order sounding in money against a department becomes final, in writing, inform the executive authority and accounting officer of that department and the relevant treasury of the final court order.

(3) (a) A final court order against a department for the payment of money must be satisfied—

- (i) within 30 days of the date of the order becoming final; or
- (ii) within the time period agreed upon by the judgment creditor and the accounting officer of the department concerned.

(b) (i) The accounting officer of the department concerned must make payment in terms of such order within the time period specified in paragraph (a)(i) or (ii).

(ii) Such payment must be charged against the appropriated budget of the department concerned.

(4) If a final court order against a department for the payment of money is not satisfied within 30 days of the date of the order becoming final as provided for in subsection (3)(a)(i) or the time period agreed upon as provided for in subsection (3)(a)(ii), the judgment creditor may serve the court order in terms of the applicable Rules of Court on the executive authority and accounting officer of the department concerned, the State Attorney or attorney of record appearing on behalf of the department concerned and the relevant treasury.

(5) The relevant treasury must, within 14 days of service of the final court order as provided for in subsection (4), ensure that—

- (a) the judgment debt is satisfied; or
- (b) acceptable arrangements have been made with the judgment creditor for the satisfaction of the judgment debt, should there be inadequate funds available in the vote of the department concerned.

(6) If the relevant treasury fails to ensure that—

- (a) the judgment debt is satisfied; or
- (b) acceptable arrangements have been made with the judgment creditor for the satisfaction of the judgment debt, should there be inadequate funds available in the vote of the department concerned,

within the time period specified in subsection (5), the registrar or clerk of the court concerned, as the case may be, must, upon the written request of the judgment creditor or his or her legal representative, issue a writ of execution or a warrant of execution in terms of the applicable Rules of Court against movable property owned by the State and used by the department concerned.

(7) (a) Subject to paragraph (b), the sheriff of the court concerned must, pursuant to the writ of execution or the warrant of execution, as the case may be, attach, but not remove, movable property owned by the State and used by the department concerned.

(b) The sheriff and the accounting officer of the department concerned, or an official of his or her department designated in writing by him or her, may, in writing, agree on the movable property owned by the State and used by