

Prescribed Rate of Interest Amendment Act [No. 7 of 1997]

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General Explanatory Note:

Words bounded by [] indicate omissions from existing enactments.

Words bounded by < > indicate insertions in existing enactments.

Act

To amend the Prescribed Rate of Interest Act, 1975, so as to regulate the payment of interest on unliquidated debts; and to provide for matters connected therewith.

*(English text signed by the President.)
(Assented to 5 April 1997.)*

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows: -

Insertion of section 2A in Act 55 of 1975

1. The Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), (hereinafter referred to as the principal Act), is hereby amended by the insertion after section 2 of the following section:

"Interest on unliquidated debts

<2a. (1) Subject to the provisions of this section the amount of every unliquidated debt as determined by a court of law, or an arbitrator or an arbitration tribunal or by agreement between the creditor and the debtor, shall bear interest as contemplated in section 1. (2) (a) Subject to any other agreement between the parties the interest contemplated in subsection (1) shall run from the date on which payment of the debt is claimed by the service on the debtor of a demand or summons, whichever date is the earlier. (b) In the case of arbitration proceedings and subject to any other agreement between the parties, interest shall run from the date on which the creditor takes steps to commence arbitration proceedings, or any of the dates contemplated in paragraph (a), whichever date is the earlier. (3) The interest on that part of a debt which consists of the present value of a loss which will occur in the future shall not commence to run until the date upon which the quantum of that part is determined by judgment, arbitration or agreement and any such part determined by arbitration or agreement shall for the purposes of this Act be deemed to be a judgment debt. (4) Where a debtor offers to settle a debt by making a payment into court or a tender and the creditor accepts the payment or tender, or a court of law awards an amount not exceeding such payment or tender, the running of interest shall be interrupted from the date of the payment into court or the tender until the date of the said acceptance or award. (5) Notwithstanding the provisions of this Act but subject to any other law or an

agreement between the parties, a court of law, or an arbitrator or an arbitration tribunal may make such order as appears just in respect of the payment of interest on an unliquidated debt, the rate at which interest shall accrue and the date from which interest shall run. (6) The provisions of section 2(2) shall apply mutatis mutandis to interest recoverable under this section.>".

Substitution of section 4 of Act 55 of 1975

2. The following section is hereby substituted for section 4 of the principal Act:

"Definitions

<4. In this Act, unless the context indicates otherwise- (i) 'court of law' means a court having jurisdiction in respect of the matter in question; (ii) (ii) 'demand' means a written demand setting out the creditor's claim in such a manner as to enable the debtor reasonably to assess the quantum thereof. (i)".>

Short title

3. This Act shall be called the Prescribed Rate of Interest Amendment Act, 1997.