

## Scope of application

Written by Dmitri Valchek

Saturday, 28 March 2009 12:23 - Last Updated Monday, 22 August 2011 13:37

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# INTERPRETATION AND FUNDAMENTAL PRINCIPLES

## Section 2

**(1)** This Act applies where—

(a) Assistance is sought in the Republic by a foreign court or a foreign representative in connection with foreign proceedings; or

(b) Assistance is sought in a foreign State in connection with proceedings under the laws of the Republic relating to insolvency; or

(c) Foreign proceedings and proceedings under the laws of the Republic relating to insolvency in respect of the same debtor are taking place concurrently; or

(d) Creditors or other interested persons in a foreign State have an interest in requesting the commencement of, or participating in, proceedings under the laws of the Republic relating to insolvency.

**(2)** (a) Subject to paragraph (b), this Act applies in respect of any State designated by the Minister by notice in the Gazette.

(b) The Minister may only designate a State as contemplated in paragraph (a) if he or she is satisfied that the recognition accorded by the law of such a State to proceedings under the laws of the Republic relating to insolvency justifies the application of this Act to foreign proceedings in such State.

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**(3)** The Minister may at any time by subsequent notice in the Gazette withdraw any notice under subsection (2) (a), and thereupon any State referred to in such last mentioned notice ceases to be a foreign State for the purposes of this Act.

**(4)** Any notice referred to in subsection (2) (a) or (3) must, before publication in the Gazette, be approved by Parliament.

**(5)** Where the Minister withdraws a notice in terms of subsection (3), such withdrawal does not affect any pending legal proceedings and such proceedings must continue as if the notice had not been withdrawn.

[Sub-s. (5) added by s. 30 of Act No. 55 of 2003.]