Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper | *As 'n Nuusblad by die Poskantoor Geregistreer*

Price 20c Prys
Overseas 30c Oorsee
POST FREE—POSVRY

VOL. 119] CAPE TOWN, 28 MAY 1975 / KAAPSTAD, 28 MEI 1975 [No. 4721

DEPARTMENT OF THE PRIME MINISTER

No. 1058. 28 May 1975.

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

No. 43 of 1975: Medical Schemes Amendment Act, 1975.

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1058. 28 Mei 1975.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 43 van 1975: Wysigingswet op Mediese Skemas, 1975.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

ACT

To amend the provisions of the Medical Schemes Act, 1967, relating to definitions, the constitution of the Central Council for Medical Schemes, the vacation of his office by a member of the said council and the remuneration of members of the said council; so as to provide for the establishment of a committee to advise the said council on matters relating to the tariff of fees; to provide for the extension of certain of the powers of the Registrar of Medical Schemes and for the appointment of an officer to be styled the Assistant Registrar of Medical Schemes; and to further regulate the registration of medical schemes; to amend the said provisions relating to the provisional registration of medical schemes; so as to abolish the compulsory registration of medical schemes also as friendly societies or pension funds and to determine in greater detail the consequences of the registration of a medical scheme; to amend the said provisions relating to the cancellation of the registration of a medical scheme; so as to regulate the liquidation, judicial management and voluntary or automatic dissolution of registered medical schemes; to empower medical schemes in certain circumstances to carry on certain other business in addition to the business of a medical scheme; to provide for the payment into their benefit funds by medical schemes of contributions received from employers of members of such schemes; to extend the matters for which provision has to be made in the rules of medical schemes; to provide for the compulsory acceptance, in certain circumstances, as members by certain other or new medical schemes, of certain members of existing medical schemes; to impose conditions relating to the membership of minors and married women; to regulate the investment of their funds by medical schemes; to regulate amalgamations and transfers involving medical schemes; to provide for the appointment by a registered medical scheme of a principal executive officer for such scheme and for the establishment and constitution of the Representative Association of Medical Schemes; to grant to the Registrar of Medical Schemes certain powers relating to the inspection of the financial affairs of medical schemes; to prescribe the manner in which the accounts of registered medical schemes are to be kept; to impose certain requirements in respect of documents to be deposited with the said registrar; to empower the said registrar to reject, or require the amplification of, certain applications or returns lodged with him, to provide for the inspection or copying of certain documents kept in the office of the said registrar and for the certification by the registrar of certain documents; to amend the said provisions relating to the binding force of the tariff of fees; so as to alter the circumstances under which a Remuneration Commission is to be appointed; to amend the constitution of that commission and to provide for the submission to the said Remuneration Commission of schedules of relative unit values; to amend the said provisions relating to the direct payment by medical schemes of overdue accounts.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

WET

Tot wysiging van die bepalings van die Wet op Mediese Skemas, 1967, met betrekking tot woordomskrywings, die samestelling van die Sentrale Raad vir Mediese Skemas, die ontruiming van sy amp deur 'n lid van genoemde raad en die vergoeding van lede van genoemde raad; ten einde voorsiening te maak vir die instelling van 'n komitee om genoemde raad van advies te dien aangaande aangeleenthede met betrekking tot die geldetarief; voorsiening te maak vir die uitbreiding van sekere van die bevoegdhede van die Registrateur van Mediese Skemas en vir die aanstelling van 'n beampte wat die Assistent-registrateur van Mediese Skemas heet; en die registrasie van mediese skemas verder te reël; tot wysiging van genoemde bepalings met betrekking tot die voorlopige registrasie van mediese skemas; ten einde die verpligte registrasie van mediese skemas ook as onderlinge hulpverenigings of pensioenfondse, af te skaf en die gevolge van die registrasie van 'n mediese skema nader te bepaal; tot wysiging van genoemde bepalings met betrekking tot die intrekking van die registrasie van 'n mediese skema; ten einde die likwidasie, geregtelike bestuur en vrywillige of outomatiese ontbinding van geregistreerde mediese skemas te reël; mediese skemas te magtig om onder sekere omstandighede sekere ander sake bykomend tot die sake van 'n mediese skema te doen; voorsiening te maak vir die storting in hulle voordelefondse deur mediese skemas van bydraes ontvang van werkgewers van lede van sodanige skemas; die aangeleenthede waarvoor in die reëls van mediese skemas voorsiening gemaak moet word, uit te brei; voorsiening te maak vir die verpligte toelating as lede, onder sekere omstandighede, deur sekere ander of nuwe mediese skemas, van sekere lede van bestaande mediese skemas; voorwaardes met betrekking tot die lidmaatskap van minderjariges en getroude vroue neer te lê; die belegging van hul fondse deur mediese skemas te reël; samesmeltings en oordragte waarby mediese skemas betrokke is, te reël; voorsiening te maak vir die aanstelling deur 'n geregistreerde mediese skema van 'n uitvoerende hoofbeampte vir daardie skema en vir die instelling en samestelling van die Verteenwoordigende Vereniging van Mediese Skemas; sekere bevoegdhede met betrekking tot die inspeksie van die finansiële sake van mediese skemas aan die Registrateur van Mediese Skemas te verleen; die wyse waarop die rekeninge van geregistreerde mediese skemas gehou moet word, voor te skryf; sekere vereistes neer te lê ten opsigte van dokumente wat by genoemde registrateur ingedien moet word; genoemde registrateur te magtig om sekere aansoeke of opgawes by hom ingedien, te verwerp of die aanvulling daarvan aan te vra, voorsiening te maak vir insae in of die maak van afskrifte van sekere stukke wat in die kantoor van genoemde registrateur gehou word en vir die sertifisering deur die registrateur van sekere stukke; tot wysiging van genoemde bepalings met betrekking tot die bindende krag van die geldetarief; ten einde die omstandighede waaronder 'n Vergoedingskommissie aangestel moet word, te verander; die samestelling van daardie kommissie te wysig en voorsiening te maak vir die voorlegging aan genoemde Vergoedingskommissie van relatiewe eenheids-

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

of members; so as to abolish the Medical Schemes Appeal Board and to transfer the functions performed by it to the Central Council for Medical Schemes; to provide for disciplinary supervision of the activities of registered medical schemes and for the acceptance, subject to the payment of a penalty, of late performance by medical schemes of certain of their duties overdue in contravention of the provisions of the said Act; and to transfer the power to make regulations to the Minister of Health and to extend that power; to amend the said provisions in order to effect certain textual changes; to amend the provisions of the Friendly Societies Act, 1956, so as to delete certain provisions of that Act in so far as they are applicable to medical schemes; to amend the Inspection of Financial Institutions Act, 1962, so as to apply the provisions thereof to medical schemes; and to provide for incidental matters.

(*Afrikaans text signed by the State President.*)
(*Assented to* 22 *May* 1975.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 1 (1) of Act 72 of 1967, as amended by section 1 of Act 95 of 1969 and section 1 of Act 49 of 1972.

1. Section 1 (1) of the Medical Schemes Act, 1967 (hereinafter referred to as the principal Act), is hereby amended—

(*a*) by the deletion of the definitions of "applicable Act", "chemist and druggist", "friendly society", "pension fund" and "recognized association";

(*b*) by the substitution for the definition of "dentist" of the following definition:

"'dentist' means a person registered as a dentist under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974);";

(*c*) by the insertion after the definition of "dependant" of the following definition:

"'financial year', in relation to a medical scheme, means each period of twelve months ending on 31 December, at the end of which the balance of its accounts is required to be struck in terms of its rules, or such other period as may on any particular occasion be determined by the registrar at the request of the scheme;";

(*d*) by the substitution for the definition of "medical practitioner" of the following definition:

"'medical practitioner' means a person registered as a medical practitioner under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974);";

(*e*) by the insertion after the definition of "Minister" of the following definitions:

"'officer', in relation to a medical scheme, means any member of a committee appointed to manage the

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

waardestate; tot wysiging van genoemde bepalings met betrekking tot die direkte betaling deur mediese skemas van agterstallige rekenings van lede; ten einde die Appèlraad vir Mediese Skemas af te skaf en die werksaamhede wat deur hom verrig is, oor te dra aan die Sentrale Raad vir Mediese Skemas; voorsiening te maak vir dissiplinêre toesig oor die werksaamhede van geregistreerde mediese skemas en vir die aanvaarding, onderworpe aan die betaling van 'n boete, van die vertraagde uitvoering deur mediese skemas van sekere van hul pligte wat, in oortreding van die bepalings van genoemde Wet, agterstallig is; en om die bevoegdheid om regulasies uit te vaardig aan die Minister van Gesondheid oor te dra en daardie bevoegdheid uit te brei; tot wysiging van genoemde bepalings ten einde sekere tekstuele veranderings aan te bring; tot wysiging van die bepalings van die Wet op Onderlinge Hulpverenigings, 1956, ten einde sekere bepalings van daardie Wet, in soverre dit op mediese skemas van toepassing is, te skrap; tot wysiging van die Wet op Inspeksie van Finansiële Instellings, 1962, ten einde die bepalings daarvan op mediese skemas toe te pas; en om vir bykomstige aangeleenthede voorsiening te maak.

(*Afrikaanse teks deur die Staatspresident geteken.*)
(*Goedgekeur op* 22 *Mei* 1975.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 (1) van Wet 72 van 1967, soos gewysig deur artikel 1 van Wet 95 van 1969 en artikel 1 van Wet 49 van 1972.

1. Artikel 1 (1) van die Wet op Mediese Skemas, 1967 (hieronder die Hoofwet genoem), word hierby gewysig—

(*a*) deur die omskrywings van „erkende vereniging", „onderlinge hulpvereniging", „pensioenfonds" en „toepaslike wet" te skrap;

(*b*) deur die omskrywing van „apteker" deur die volgende omskrywing te vervang:

„ ,apteker' iemand wat kragtens die Wet op Aptekers, 1974 (Wet No. 53 van 1974), as 'n apteker geregistreer is;";

(*c*) deur na die omskrywing van "apteker" die volgende omskrywings in te voeg:

„,beampte', met betrekking tot 'n mediese skema, 'n lid van 'n komitee wat aangestel is om die sake van 'n skema te bestuur, of 'n individu aangestel vir daardie doel, of 'n bestuurder, hoofbeampte, tesourier, klerk of ander agent of werknemer van die skema, maar nie ook 'n ouditeur wat kragtens artikel 20A (3) aangestel is nie;

,boekjaar', met betrekking tot 'n mediese skema, elke tydperk van twaalf maande wat op 31 Desember eindig, aan die einde waarvan die balans van sy rekeninge volgens sy reëls opgemaak moet word, of die ander tydperk wat die registrateur by 'n besondere geleentheid op versoek van die skema bepaal;";

(*d*) deur die omskrywing van „geldetarief" deur die volgende omskrywing te vervang:
„,geldetarief'—

(*a*) met betrekking tot die dienste deur 'n geneesheer gelewer, die geldetarief deur die Minister in die *Staatskoerant* by Goewer-

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

affairs of the scheme, or any individual appointed for that purpose, or any manager, principal officer, treasurer, clerk or other agent or employee of the scheme, but does not include an auditor appointed under section 20A (3);

'person' includes any committee appointed to manage the affairs of a scheme;

'pharmacist' means any person registered as a pharmacist under the Pharmacy Act, 1974 (Act No. 53 of 1974);";

(*f*) by the insertion after the definition of "prescribed" of the following definition:

"'principal officer' means the principal officer referred to in section 23;";

(*g*) by the insertion after the definition of "registered" of the following definition:

"'registered office' means the registered office referred to in section 17 (4);";

(*h*) by the insertion after the definition of "regulation" of the following definition:

"'Representative Association of Medical Schemes' means the Representative Association of Medical Schemes established by section 23A;";

(*i*) by the insertion after the definition of "rules" of the following definition:

"'schedule of relative unit values' means a schedule specifying in respect of any profession or supplier contemplated in section 30 (2) (*b*), (*c*) or (*d*), the different services rendered by such profession or supplier and attaching to each such service a value, calculated on a percentage basis and indicated by means of a points system, in relation to all such services;"; and

(*j*) by the substitution for the definition of "tariff of fees" of the following definition:

"'tariff of fees' means—

(*a*) in relation to the services rendered by a medical practitioner, the tariff of fees published by the Minister in the *Gazette* by Government Notice No. R.1378 of 1 September 1967 and as amended from time to time in accordance with the provisions of section 30; and

(*b*) in relation to the services rendered by a dentist, the tariff of fees published by the Minister in the *Gazette* by Government Notice No. R.851 of 17 May 1968 and as amended from time to time in accordance with the provisions of section 30; and

(*c*) in relation to the services rendered by a profession or supplier contemplated in section 30 (2) (*d*), the tariff of fees published by the Minister in the *Gazette* in accordance with the provisions of section 30 and as amended from time to time in accordance with the provisions of that section;".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

mentskennisgewing No. R.1378 van 1 September 1967 afgekondig, en soos van tyd tot tyd ooreenkomstig die bepalings van artikel 30 gewysig;

(*b*) met betrekking tot die dienste deur 'n tandarts gelewer, die geldetarief deur die Minister in die *Staatskoerant* by Goewermentskennisgewing No. R.851 van 17 Mei 1968 afgekondig, en soos van tyd tot tyd ooreenkomstig die bepalings van artikel 30 gewysig; en

(*c*) met betrekking tot die dienste deur 'n beroep of verskaffer bedoel in artikel 30 (2) (*d*) gelewer, die geldetarief deur die Minister in die *Staatskoerant* ooreenkomstig die bepalings van artikel 30 afgekondig en soos van tyd tot tyd ooreenkomstig die bepalings van daardie artikel gewysig;";

(*e*) deur die omskrywing van „geneesheer" deur die volgende omskrywing te vervang:

„,geneesheer' iemand wat kragtens die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), as 'n geneesheer geregistreer is;";

(*f*) deur na die omskrywing van „geregistreer" die volgende omskrywing in te voeg:
„,geregistreerde kantoor' die geregistreerde kantoor bedoel in artikel 17 (4);";

(*g*) deur na die omskrywing van „hierdie Wet" die volgende omskrywing in te voeg:
„,hoofbeampte' die hoofbeampte bedoel in artikel 23;";

(*h*) deur na die omskrywing van „Minister" die volgende omskrywing in te voeg:
„,persoon' ook 'n komitee wat aangestel is om die sake van 'n skema te bestuur;";

(*i*) deur na die omskrywing van „regulasie" die volgende omskrywing in te voeg:

„,relatiewe eenheidswaardestaat' 'n staat waarin, ten opsigte van 'n beroep of verskaffer beoog in artikel 30 (2) (*b*), (*c*) of (*d*), die verskillende dienste wat deur so 'n beroep of verskaffer gelewer word, uiteengesit word en 'n waarde, bereken op 'n persentasiebasis en aangedui deur middel van 'n puntesisteem, aan elke sodanige diens geheg word in verhouding met al daardie dienste;";

(*j*) deur die omskrywing van „tandarts" deur die volgende omskrywing te vervang:
„,tandarts' iemand wat kragtens die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), as 'n tandarts geregistreer is;"; en

(*k*) deur na die omskrywing van „tandarts" die volgende omskrywing in te voeg:

„,Verteenwoordigende Vereniging van Mediese Skemas' die Verteenwoordigende Vereniging van Mediese Skemas by artikel 23A ingestel;".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Amendment of section 5 of Act 72 of 1967, as amended by section 4 of Act 95 of 1969.

2. Section 5 of the principal Act is hereby amended—

(*a*) by the substitution for subsection (1) of the following subsection:

"(1) The Council shall consist of a chairman appointed by the Minister and of eleven ordinary members likewise appointed and of whom one shall be designated by the Minister as vice-chairman of the council.";

(*b*) by the substitution for paragraph (*a*) of subsection (2) of the following paragraph:

"(*a*) Nine of the ordinary members of the council shall be persons who are appointed as such members on account of their knowledge or experience of medical schemes, and of such members—

(i) two shall be medical practitioners;

(ii) one shall be a dentist;

(iii) one shall a pharmacist;

(iv) one shall be a person who has special knowledge of medical benefit schemes;

(v) one shall be a person who has special knowledge of medical aid schemes;

(vi) one shall be a person who has special knowledge of medical schemes established under agreements published or deemed to have been published under section 48 of the Industrial Conciliation Act, 1956 (Act No. 28 of 1956);

(vii) one shall be a person who has special knowledge of hospital services, private hospitals and unattached operating-theatre units; and

(viii) one shall be a person who has special knowledge of financial and business techniques."; and

(*c*) by the substitution for paragraph (*a*A) of subsection (2) of the following paragraph:

"(*a*A) One of the members of the council shall be a member of the South African Medical and Dental Council, referred to in section 2 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), who is not registered under that Act.".

Substitution of section 6 of Act 72 of 1967.

3. The following section is hereby substituted for section 6 of the principal Act:

"Persons disqualified from being members of council, and vacation of office.

6. (1) No person shall be appointed as a member of the council if he—

(*a*) is an unrehabilitated insolvent;

(*b*) is disqualified under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), from carrying on his profession;

(*c*) is not a South African citizen permanently resident in the Republic.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Wysiging van artikel 5 van Wet 72 van 1967, soos gewysig deur artikel 4 van Wet 95 van 1969.

2. Artikel 5 van die Hoofwet word hierby gewysig—

(*a*) deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Die raad bestaan uit 'n voorsitter wat die Minister aanstel, en uit elf gewone lede insgelyks aangestel, waarvan een deur die Minister as ondervoorsitter van die raad aangewys word.";

(*b*) deur paragraaf (*a*) van subartikel (2) deur die volgende paragraaf te vervang:

„(*a*) Nege van die gewone lede van die raad moet persone wees wat uit hoofde van hul kennis of ondervinding van mediese skemas as sodanige lede aangestel word, en van sodanige lede moet—

(i) twee geneeshere;

(ii) een 'n tandarts;

(iii) een 'n apteker;

(iv) een iemand met besondere kennis van mediese bystandskemas;

(v) een iemand met besondere kennis van mediese hulpskemas;

(vi) een iemand met besondere kennis van mediese skemas wat gestig is kragtens ooreenkomste wat gepubliseer is of geag word gepubliseer te wees kragtens artikel 48 van die Wet op Nywerheidsversoening, 1956 (Wet No. 28 van 1956);

(vii) een iemand met besondere kennis van hospitaaldienste, private hospitale en losstaande operasiesaaleenhede; en

(viii) een iemand met besondere kennis van finansiële en besigheidstegnieke,

wees."; en

(*c*) deur paragraaf (*a*A) van subartikel (2) deur die volgende paragraaf te vervang:

„(*a*A) Een van die lede van die raad moet 'n lid wees van die Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad, bedoel in artikel 2 van die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), wat nie ingevolge daardie Wet geregistreer is nie.".

Vervanging van artikel 6 van Wet 72 van 1967.

3. Artikel 6 van die Hoofwet word hierby deur die volgende artikel vervang:

„Persone wat onbevoeg is om lede van die raad te wees, en ontruiming van amp.

6. (1) Niemand word as lid van die raad aangestel nie indien hy—

(*a*) 'n ongerehabiliteerde insolvent is;

(*b*) kragtens die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), onbevoeg is om sy beroep voort te sit;

(*c*) nie 'n Suid-Afrikaanse burger is wat permanent in die Republiek woonagtig is nie.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(2) A member of the council shall vacate his office if he—

(*a*) becomes subject to any disqualification referred to in subsection (1);

(*b*) becomes mentally ill;

(*c*) is convicted of an offence and sentenced to imprisonment without the option of a fine;

(*d*) has been absent from more than two consecutive meetings of the council without the council's leave; or

(*e*) in the public interest, is relieved of his office by the Minister.".

Amendment of section 7 of Act 72 of 1967.

4. Section 7 of the principal Act is hereby amended—

(*a*) by the substitution for subsection (2) of the following subsection:

"(2) The chairman, vice-chairman, other members of the council and members of committees of the council who are not members of the council, excluding any such member—

(*a*) who is in the full-time service of the State; or

(*b*) who is in the full-time service of an employer by whom such member is remunerated in respect of such service and with whose consent such member was appointed as such,

shall be paid such remuneration and allowances on such conditions as the Minister in consultation with the Minister of Finance may determine."; and

(*b*) by the deletion of subsection (3).

Amendment of section 10 of Act 72 of 1967.

5. Section 10 of the principal Act is hereby amended—

(*a*) by the substitution for subsection (2) of the following subsection:

"(2) The council shall establish a committee to make recommendations to it relating to—

(*a*) the interpretation of the tariff of fees;

(*b*) the addition of new items to the tariff of fees after the determination of the relative unit values (referred to in section 30 (7) (*a*)) of such items by the appropriate association referred to in section 30 (2) (*b*), (*c*) or (*d*), as the case may be; and

(*c*) the adjustment of anomalies appearing in the tariff of fees published by the Minister in the *Gazette* by Government Notice No. R.2009 of 1 November 1974, and of anomalies in respect of the relative unit values of items appearing in any tariff of fees published in the *Gazette* subsequent to the said date."; and

(*b*) by the addition of the following subsections:

"(3) The members of the committee referred to in subsection (2) shall be appointed by the council and shall, subject to the provisions of subsections (4) and (5), consist of—

(*a*) a chairman who shall be a member of the council;

(*b*) a person nominated by the Representative Association of Medical Schemes;

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(2) 'n Lid van die raad ontruim sy amp indien hy—

(*a*) aan 'n in subartikel (1) bedoelde onbevoegdheid onderhewig raak;

(*b*) geestesongesteld raak;

(*c*) aan 'n misdryf skuldig bevind word en sonder die keuse van 'n boete tot gevangenisstraf veroordeel word;

(*d*) sonder verlof van die raad van meer as twee agtereenvolgende vergaderings van die raad afwesig was; of

(*e*) in die openbare belang deur die Minister van sy amp onthef word.".

Wysiging van artikel 7 van Wet 72 van 1967.

4. Artikel 7 van die Hoofwet word hierby gewysig—

(*a*) deur subartikel 2 deur die volgende subartikel te vervang:

„(2) Aan die voorsitter, ondervoorsitter, ander lede van die raad en lede van komitees van die raad wat nie lede van die raad is nie, uitgesonderd so 'n lid—

(*a*) wat in die heeltydse diens van die Staat is; of

(*b*) wat in die heeltydse diens van 'n werkgewer is deur wie so 'n lid besoldig word ten opsigte van sodanige diens en met wie se toestemming so 'n lid as sulks aangestel is,

word sodanige vergoeding en toelaes betaal, op sodanige voorwaardes, as wat die Minister in oorleg met die Minister van Finansies bepaal"; en

(*b*) deur subartikel (3) te skrap.

Wysiging van artikel 10 van Wet 72 van 1967.

5. Artikel 10 van die Hoofwet word hierby gewysig—

(*a*) deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Die raad moet 'n komitee instel om aan hom aanbevelings te doen met betrekking tot—

(*a*) die vertolking van die geldetarief;

(*b*) die toevoeging van nuwe items tot die geldetarief nadat die relatiewe eenheidswaardes (bedoel in artikel 30 (7) (*a*)) van sodanige items deur die toepaslike vereniging bedoel in artikel 30 (2) (*b*), (*c*) of (*d*), na gelang van die geval, bepaal is; en

(*c*) die regstelling van anomalieë wat voorkom in die geldetarief wat deur die Minister in die *Staatskoerant* by Goewermentskennisgewing No. R2009 van 1 November 1974 afgekondig is, en van anomalieë ten opsigte van die relatiewe eenheidswaardes van items wat voorkom in 'n geldetarief wat na bedoelde datum in die *Staatskoerant* afgekondig word."; en

(*b*) deur die volgende subartikels by te voeg:

„(3) Die lede van die komitee bedoel in subartikel (2) word deur die raad aangestel en bestaan, behoudens die bepalings van subartikels (4) en (5), uit—

(*a*) 'n voorsitter wat 'n lid van die raad moet wees;

(*b*) 'n persoon benoem deur die Verteenwoordigende Vereniging van Mediese Skemas;

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(*c*) two medical practitioners, one of whom shall be nominated by the Medical Association of South Africa and the other by the Representative Association of Medical Schemes;

(*d*) two dentists, one of whom shall be nominated by the Dental Association of South Africa and the other by the Representative Association of Medical Schemes;

(*e*) two persons representing a profession, or suppliers, contemplated in section 30 (2) (*d*), in respect of which a tariff of fees has been put into operation in terms of the provisions of section 30, one of whom shall be nominated by the association which in the opinion of the Minister is representative of the profession or suppliers concerned and the other by the Representative Association of Medical Schemes;

(*f*) the person (if any) co-opted in terms of the provisions of subsection (5).

(4) Any member appointed in terms of subsection (3) (*c*), (*d*) or (*e*) to the committee referred to in subsection (2) shall not take part in the proceedings of that committee in so far as they relate to any tariff of fees in which such member has no interest by virtue of his profession.

(5) The chairman of the committee referred to in subsection (2) shall at the request of a member referred to in subsection (3) (*c*), (*d*) or (*e*) (other than such a member nominated by the Representative Association of Medical Schemes), according as the tariff of fees of medical practitioners, dentists or a profession or the suppliers referred to in section 30 (2) (*d*) is to be considered by the committee, co-opt as a member of the committee a further medical practitioner, dentist or person representing a profession or suppliers referred to in section 30 (2) (*d*), as the case may be, designated by the member making the said request from a list of names of medical practitioners, dentists or persons representing a profession or suppliers referred to in section 30 (2) (*d*), submitted by the Medical Association of South Africa, the Dental Association of South Africa or the appropriate representative association referred to in subsection (3) (*e*), as the case may be.".

Substitution of section 13 of Act 72 of 1967, as substituted by section 7 of Act 95 of 1969.

6. The following section is hereby substituted for section 13 of the principal Act:

"Appointment of Registrar of Medical Schemes and Assistant Registrar of Medical Schemes.

13. (1) Subject to the laws governing the public service, the Minister shall, after consultation with the council—

(*a*) appoint an officer to be styled the Registrar of Medical Schemes who—

(i) shall act as the executive officer of the council and shall perform the functions and carry out the duties assigned to or imposed upon the registrar by or under this Act; and

(ii) shall perform such other functions and carry out such other duties as may from time to time be assigned to or imposed upon him by the Secretary for Health;

(*b*) appoint an officer to be styled the Assistant Registrar of Medical Schemes who shall assist

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(c) twee geneeshere van wie een deur die Mediese Vereniging van Suid-Afrika en die ander deur die Verteenwoordigende Vereniging van Mediese Skemas benoem word;

(d) twee tandartse van wie een deur die Tandheelkundige Vereniging van Suid-Afrika en die ander deur die Verteenwoordigende Vereniging van Mediese Skemas benoem word;

(e) twee persone wat 'n beroep of verskaffers beoog in artikel 30 (2) (d), ten opsigte waarvan 'n geldetarief in werking gestel is ingevolge die bepalings van artikel 30, verteenwoordig, van wie een deur die vereniging wat na die oordeel van die Minister verteenwoordigend is van die betrokke beroep of verskaffers en die ander deur die Verteenwoordigende Vereniging van Mediese Skemas benoem word;

(f) die persoon (as daar is) gekoöpteer ingevolge die bepalings van subartikel (5).

(4) 'n Lid wat ingevolge subartikel (3) (c), (d) of (e) in die komitee bedoel in subartikel (2) aangestel is, neem nie deel aan die verrigtinge van daardie komitee vir sover hulle betrekking het op 'n geldetarief waarby so 'n lid geen belang uit hoofde van sy beroep het nie.

(5) Die voorsitter van die komitee bedoel in subartikel (2) moet op versoek van 'n lid bedoel in subartikel 3 (c), (d) of (e) (uitgesonderd so 'n lid benoem deur die Verteenwoordigende Vereniging van Mediese Skemas), na gelang die geldetarief van geneeshere, tandartse of 'n beroep of die verskaffers bedoel in artikel 30 (2) (d) deur die komitee oorweeg staan te word, 'n bykomende geneesheer, tandarts of persoon wat 'n beroep of verskaffers bedoel in artikel 30 (2) (d) verteenwoordig, na gelang van die geval, wat deur die lid wat bedoelde versoek rig, aangewys word uit 'n lys van name van geneeshere, tandartse of persone wat 'n beroep of verskaffers bedoel in artikel 30 (2) (d) verteenwoordig, wat deur die Mediese Vereniging van Suid-Afrika, die Tandheelkundige Vereniging van Suid-Afrika of die toepaslike verteenwoordigende vereniging bedoel in subartikel (3) (e), na gelang van die geval, voorgelê is, as 'n lid van die komitee koöpteer.".

Vervanging van artikel 13 van Wet 72 van 1967, soos vervang deur artikel 7 van Wet 95 van 1969.

6. Artikel 13 van die Hoofwet word hierby deur die volgende artikel vervang:

„Aanstelling van Registrateur van Mediese Skemas en Assistent-registrateur van Mediese Skemas.

13. (1) Behoudens die wetsbepalings op die Staatsdiens stel die Minister, na oorlegpleging met die raad—

(a) 'n beampte aan wat die Registrateur van Mediese Skemas heet en wat—

(i) as die uitvoerende beampte van die raad optree en die werksaamhede verrig en die pligte uitvoer wat by of kragtens hierdie Wet aan die registrateur toegewys is of hom opgelê word; en

(ii) die ander werksaamhede verrig en die ander pligte uitvoer wat van tyd tot tyd deur die Sekretaris van Gesondheid aan hom toegewys of hom opgelê word;

(b) 'n beampte aan wat die Assistent-registrateur van Mediese Skemas heet en wat die registrateur

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

the registrar in the performance of his functions and the carrying out of his duties.

(2) Whenever the registrar is absent or unable to perform his functions, carry out his duties or exercise his powers, the Assistant Registrar shall perform those functions, carry out those duties and may exercise those powers.".

Amendment of section 15 of Act 72 of 1967.

7. Section 15 of the principal Act is hereby amended by the addition of the following subsections:

"(3) No scheme shall be registered under a name identical with the name of any other scheme already registered or under a name so closely resembling the name of such other scheme that, in the opinion of the registrar, it may result in the schemes concerned being confused with one another.

(4) If more than one application under section 14 for registration under the same name are received by the registrar simultaneously, he may request one or more of the applicants to change the name of the scheme or schemes concerned.

(5) If the registrar is satisfied that a scheme in respect of which an application in terms of section 14 is made, does not have sufficient members to ensure an adequate distribution of risk, he may refuse to register that scheme.".

Substitution of section 16 of Act 72 of 1967.

8. The following section is hereby substituted for section 16 of the principal Act:

"Provisional registration and registration of medical schemes.

16. (1) If, after considering any application made in terms of section 14 in respect of a medical scheme, the registrar is not satisfied that the scheme in question complies in respect of its rules or otherwise with the provisions of this Act, he shall, subject to the provisions of section 15 (3) and (5), register the scheme provisionally and forward to the applicant a certificate of provisional registration in the prescribed form, and in writing indicate to the applicant the requirements to be complied with in order that he may be so satisfied.

(2) The provisional registration of a medical scheme under subsection (1) shall be valid for a period of one year.

(3) When the registrar is satisfied that a provisionally registered medical scheme complies in respect of its rules and otherwise with the provisions of this Act, he shall register the scheme and transmit to the person appointed for the purposes of section 23 in respect of that scheme a certificate of registration in the prescribed form as well as a copy of its rules with the date of registration endorsed thereon, and thereupon the scheme shall cease to be provisionally registered.".

Substitution of section 17 of Act 72 of 1967.

9. The following section is hereby substituted for section 17 of the principal Act:

"Effects of registration of medical scheme.

17. (1) Upon the registration under this Act of a scheme—

(*a*) the scheme shall, under the name by which it is so registered, and in so far as its activities are concerned with any of the objects set out in the definition of 'medical scheme' in subsection (1)

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

by die verrigting van sy werksaamhede en die uitvoering van sy pligte behulpsaam is.

(2) Wanneer die registrateur afwesig is of nie in staat is om sy werksaamhede te verrig, pligte uit te voer of bevoegdhede uit te oefen nie, moet die assistent-registrateur daardie werksaamhede verrig en daardie pligte uitvoer en kan hy daardie bevoegdhede uitoefen.".

Wysiging van artikel 15 van Wet 72 van 1967.

7. Artikel 15 van die Hoofwet word hierby gewysig deur die volgende subartikels by te voeg:

„(3) Geen skema word geregistreer onder 'n naam wat dieselfde is as die naam van 'n ander skema wat reeds geregistreer is nie of onder 'n naam wat soveel met die naam van so 'n ander skema ooreenkom dat dit, na die oordeel van die registrateur, daartoe kan lei dat die betrokke skemas met mekaar verwar word nie.

(4) Indien daar meer as een aansoek kragtens artikel 14 om registrasie onder dieselfde naam gelyktydig deur die registrateur ontvang word, kan hy een of meer van die aansoekers versoek om die naam van die betrokke skema of skemas te verander.

(5) Indien die registrateur oortuig is dat 'n skema ten opsigte waarvan 'n aansoek ingevolge artikel 14 gedoen word nie voldoende lede het om 'n genoegsame verspreiding van risiko te verseker nie, kan hy weier om daardie skema te registreer.".

Vervanging van artikel 16 van Wet 72 van 1967.

8. Artikel 16 van die Hoofwet word hierby deur die volgende artikel vervang:

„Voorlopige registrasie en registrasie van mediese skemas.

16. (1) Indien die registrateur na oorweging van 'n aansoek ingevolge artikel 14 gedoen ten opsigte van 'n mediese skema nie oortuig is dat die betrokke skema ten opsigte van sy reëls of andersins aan die bepalings van hierdie Wet voldoen nie, registreer hy, behoudens die bepalings van artikel 15 (3) en (5), die skema voorlopig en stuur hy aan die aansoeker 'n voorlopige registrasiesertifikaat in die voorgeskrewe vorm en deel hy die aansoeker skriftelik mee aan watter vereistes voldoen moet word ten einde hom aldus te oortuig.

(2) Die voorlopige registrasie van 'n skema kragtens subartikel (1) is vir 'n tydperk van een jaar geldig.

(3) Wanneer die registrateur oortuig is dat 'n voorlopig geregistreerde mediese skema ten opsigte van sy reëls en andersins aan die bepalings van hierdie Wet voldoen, registreer hy die skema en stuur hy aan die persoon wat vir die doeleindes van artikel 23 ten opsigte van daardie skema aangestel is, 'n registrasiesertifikaat in die voorgeskrewe vorm asook 'n afskrif van sy reëls met die datum van registrasie daarop aangeteken, en dan hou die skema op om voorlopig geregistreer te wees.".

Vervanging van artikel 17 van Wet 72 van 1967.

9. Artikel 17 van die Hoofwet word hierby deur die volgende artikel vervang:

„Gevolge van registrasie van mediese skema.

17. (1) By die registrasie ingevolge hierdie Wet van 'n skema—

(*a*) word die skema onder die naam waaronder hy aldus geregistreer is, en vir sover sy bedrywighede op enige van die oogmerke vermeld in die omskrywing van ‚mediese skema' in subartikel

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

of section 1, become a body corporate capable of suing and being sued in its corporate name and of doing or causing to be done all such things as may be necessary for or incidental to the exercise of its powers or the performance of its functions in terms of its rules;

(*b*) all the assets, rights, liabilities and obligations pertaining to the business of the scheme shall, notwithstanding anything contained in any law or in the memorandum, articles of association, constitution or rules of any body corporate or unincorporate having control of the business of the scheme, be deemed to be assets, rights, liabilities and obligations of the scheme to the exclusion of any other person, and no person shall have any claim on the assets or rights or be responsible for any liabilities or obligations of the scheme, except in so far as the claim has arisen or the responsibility has been incurred in connection with transactions relating to the business of the scheme;

(*c*) the assets, rights, liabilities and obligations of the scheme (including any assets held in trust for the scheme by any person) as existing immediately prior to its registration, shall vest in and devolve upon the registered scheme, without any formal transfer or cession.

(2) The officer in charge of a deeds registry in which is registered any deed or other document relating to any asset or right which in terms of paragraph (*c*) of subsection (1) vests in or devolves upon a registered scheme, shall, upon production to him by the scheme of its certificate of registration or of provisional registration, as the case may be, and of the deed or other document aforesaid, without payment of transfer duty, stamp duty, registration fees or charges, make the endorsements upon such deed or document and the alterations in his registers that are necessary by reason of such vesting or devolution.

(3) All moneys and assets belonging to a scheme shall be kept by that scheme and every scheme shall maintain such books of account and other records as may be necessary for the purposes of such scheme.

(4) Every registered scheme shall have a registered office in the Republic.

(5) Process in any legal proceedings against any such scheme may be served by leaving it at the registered office, and in the event of such registered office having ceased to exist, service upon the registrar shall be deemed to be service upon the scheme.".

Amendment of section 18 of Act 72 of 1967.

10. Section 18 of the principal Act is hereby amended—

(*a*) by the substitution for subsection (2) of the following subsection:

"(2) If—

(*a*) the registrar after investigation is of the opinion that the registration of a scheme should be cancelled or suspended; or

(*b*) a scheme, after notice from the registrar, persists in violating any provision of this Act,

the registrar may apply to the council for the cancellation or suspension of the registration of such scheme."; and

(*b*) by the addition of the following subsections:

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(1) van artikel 1 betrekking het, met regspersoonlikheid beklee en bevoeg om in sy naam as regspersoon as eiser en verweerder in regte op te tree en om alle dinge te doen of te laat doen wat vir die uitoefening van sy bevoegdhede of die verrigting van sy werksaamhede ingevolge sy reëls nodig is of daarmee in verband staan;

(*b*) word, ondanks andersluidende bepalings van een of ander wet of van die akte van oprigting, statute, konstitusie of reëls van enige liggaam, hetsy met regspersoonlikheid beklee al dan nie, wat die sake van die skema beheer, al die bates, regte, laste en verpligtings wat aan die sake van die skema verbonde is, geag die bates, regte, laste en verpligtings van die skema te wees, tot uitsluiting van enige ander persoon, en het niemand enige aanspraak op die bates of regte of enige aanspreeklikheid ten opsigte van die laste of verpligtings van die skema nie, behalwe vir sover die eis ontstaan of die aanspreeklikheid opgeloop het in verband met transaksies betreffende die sake van die skema;

(*c*) berus die bates, regte, laste en verpligtings van die skema (met inbegrip van bates deur enigiemand in trust vir die skema gehou), soos dit onmiddellik voor sy registrasie bestaan, by en gaan dit oor op die geregistreerde skema sonder enige formele oordrag of sessie.

(2) Die amptenaar belas met die beheer oor 'n registrasiekantoor van aktes waarin 'n akte of ander dokument betreffende 'n bate of reg wat ooreenkomstig die bepalings van paragraaf (*c*) van subartikel (1) by 'n geregistreerde skema berus of op hom oorgaan, geregistreer is, moet by vertoning aan hom deur die skema van sy sertifikaat van registrasie of voorlopige registrasie, na gelang van die geval, en van die akte of ander dokument voormeld, sonder betaling van hereregs, seëlreg, registrasiegelde of koste, die aantekenings op daardie akte of dokument en die veranderings in sy registers maak wat as gevolg van sodanige berusting of oorgang nodig is.

(3) Alle gelde en bates behorende aan 'n skema moet deur daardie skema gehou word en elke skema moet die rekeningboeke en ander registers hou wat vir die doeleindes van sodanige skema nodig is.

(4) Elke geregistreerde skema moet 'n geregistreerde kantoor in die Republiek hê.

(5) Die bestelling van prosesstukke in 'n regsgeding teen so 'n skema kan geskied deur hulle by die geregistreerde kantoor te laat, en ingeval so 'n geregistreerde kantoor opgehou het om te bestaan, word bestelling aan die registrateur geag bestelling aan die skema te wees.".

Wysiging van artikel 18 van Wet 72 van 1967.

10. Artikel 18 van die Hoofwet word hierby gewysig—

(*a*) deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Indien—

(*a*) die registrateur na ondersoek van oordeel is dat die registrasie van 'n skema ingetrek of opgeskort behoort te word; of

(*b*) 'n skema na kennisgewing deur die registrateur volhou om 'n bepaling van hierdie Wet te skend,

kan die registrateur by die raad om die intrekking of opskorting van die registrasie van bedoelde skema aansoek doen."; en

(*b*) deur die volgende subartikels by te voeg:

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

"(3) The council may cancel the registration of a scheme in respect of which it has received an application in terms of subsection (2), or suspend such registration for such a period as it may deem fit, and may attach to such cancellation or suspension such conditions as it may deem expedient, or may make any other order which in the circumstances it may deem expedient.

(4) Any decision taken by the registrar in terms of subsection (1) or by the council in terms of subsection (3), shall be made known by the registrar to the scheme concerned by means of written notice served upon the scheme by registered post and shall come into operation on a date specified in such notice.".

Insertion of sections 18A, 18B, 18C, 18D and 18E in Act 72 of 1967.

11. The following sections are hereby inserted in the principal Act after section 18:

"Applications to court.

18A. (1) The registrar may, with the consent of the council, in regard to any registered scheme, apply to the court for an order in terms of paragraph (*c*), (*d*) or (*e*) of subsection (3), and a registered scheme may, in regard to itself, apply to the court for an order in terms of paragraph (*b*), (*d*) or (*e*) of that subsection, if the registrar or the scheme is of the opinion that it is desirable, because the scheme is not in a sound financial condition or for any other reason, that such an order be made in regard to the scheme: Provided that a scheme shall not make such an application except by leave of the court, and the court shall not grant such leave unless the scheme has given security to an amount specified by the court for the payment of the costs of the application and of any opposition thereto, and has established *prima facie* the desirability of the order for which it wishes to apply.

(2) Any creditor of a registered scheme who is unable to obtain payment of his claim after recourse to the ordinary process of law may, in regard to such scheme, make an application to the court for an order in terms of paragraph (*b*), (*d*) or (*e*) of subsection (3), and the proviso to subsection (1) shall apply *mutatis mutandis* in regard to such an application.

(3) Upon any application in terms of either of the preceding subsections, the court may—

(*a*) refuse the application; or

(*b*) order that an investigation be made and may issue such directions regarding such investigation as the court may deem desirable; or

(*c*) order that the rules of the scheme relating to the appointment, powers, remuneration and removal from office of the person managing the business of the scheme, or relating to such other matter as the court may regard appropriate, be altered in a manner to be specified in such order; or

(*d*) order that the scheme be placed under judicial management in terms of section 18B; or

(*e*) order that the whole or any part of the business of the scheme be wound up in terms of section 18C.

(4) In exercising its discretion under subsection (3), the court shall consider the equitable interests of the members of the scheme and of any other

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

„(3) Die raad kan die registrasie van 'n skema ten opsigte waarvan hy 'n aansoek ingevolge subartikel (2) ontvang het, intrek, of sodanige registrasie vir die tydperk wat hy goedvind, opskort, en kan aan daardie intrekking of opskorting die voorwaardes heg wat hy wenslik ag, of enige ander bevel uitvaardig wat hy onder die omstandighede wenslik ag.

(4) 'n Besluit wat deur die registrateur ingevolge subartikel (1) of deur die raad ingevolge subartikel (3) geneem is, word deur die registrateur aan die betrokke skema bekend gemaak by wyse van skriftelike kennisgewing per aangetekende pos aan die skema bestel en tree in werking op 'n datum vermeld in bedoelde kennisgewing.".

Invoeging van artikels 18A, 18B, 18C, 18D en 18E in Wet 72 van 1967.

11. Die volgende artikels word hierby in die Hoofwet na artikel 18 ingevoeg:

„Aansoeke by die hof.

18A. (1) Met toestemming van die raad kan die registrateur met betrekking tot 'n geregistreerde skema by die hof aansoek doen om 'n bevel ooreenkomstig paragraaf (*c*), (*d*) of (*e*) van subartikel (3), en 'n geregistreerde skema kan met betrekking tot homself by die hof aansoek doen om 'n bevel ooreenkomstig paragraaf (*b*), (*d*) of (*e*) van daardie subartikel, indien die registrateur of die skema van oordeel is dat dit wenslik is, omdat die skema nie in 'n gesonde geldelike toestand is nie, of om 'n ander rede, dat so 'n bevel ten aansien van die skema uitgevaardig word: Met dien verstande dat 'n skema nie so 'n aansoek doen nie, behalwe met verlof van die hof en dat die hof nie sodanige verlof verleen nie, tensy die skema sekerheid gestel het tot 'n bedrag deur die hof vasgestel ten opsigte van betaling van die koste van die aansoek en van enige opposisie daarteen en *prima facie* bewys gelewer het van die wenslikheid van die bevel waarom hy aansoek wil doen.

(2) 'n Skuldeiser van 'n geregistreerde skema wat, nadat hy van sy gewone regsmiddele gebruik gemaak het, nie daarin geslaag het om betaling van sy vordering te verkry nie, kan ten aansien van daardie skema by die hof aansoek doen om 'n bevel ooreenkomstig paragraaf (*b*), (*d*) of (*e*) van subartikel (3), en die voorbehoudsbepaling by subartikel (1) is *mutatis mutandis* van toepassing ten opsigte van so 'n aansoek.

(3) By 'n aansoek ooreenkomstig een of ander van die voorgaande subartikels kan die hof—

(*a*) die aansoek weier; of

(*b*) beveel dat 'n ondersoek gedoen word, en sodanige voorskrifte aangaande so 'n ondersoek uitvaardig as wat die hof wenslik ag; of

(*c*) beveel dat die reëls van die skema met betrekking tot die aanstelling, bevoegdhede, besoldiging en ontslag van die persoon wat die sake van die skema bestuur, of met betrekking tot enige ander aangeleentheid wat die hof paslik ag, op 'n wyse wat in so 'n bevel vermeld word, gewysig word; of

(*d*) beveel dat die skema ooreenkomstig artikel 18B onder geregtelike bestuur geplaas word; of

(*e*) beveel dat die saak of 'n deel van die saak van die skema ooreenkomstig artikel 18C gelikwideer word.

(4) By die uitoefening van sy diskresie kragtens subartikel (3), moet die hof rekening hou met die regmatige belange van die lede van die skema en van

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

person who has rendered or who intends to render financial assistance to the scheme, and, subject to such consideration as aforesaid, shall make such order as it deems most advantageous to the members of the scheme.

(5) When a court has made an order in terms of paragraph (*b*) of subsection (3) in regard to a scheme, it may at any time thereafter make an order in terms of paragraph (*c*), (*d*) or (*e*) of that subsection in regard to that scheme, and when a court has made an order in terms of paragraph (*d*) of subsection (3) in regard to a scheme, it may at any time thereafter make an order in terms of paragraph (*e*) of that subsection in regard to that scheme.

(6) Notwithstanding anything to the contrary contained in the rules of the scheme, an order of the court made in terms of paragraph (*c*) of subsection (3) shall take effect as from any date specified for that purpose in the order, or if no date has been so specified, as from the date of the order, and thereupon the said rules shall be deemed to have been amended in the manner specified by the court.

(7) Unless the court otherwise orders, the costs of the registrar in or in connection with an application in terms of this section, shall be paid by the scheme and shall be a first charge upon the assets of such scheme.

(8) A registered scheme shall not be placed under judicial management or wound up or dissolved otherwise than under the provisions of this Act.

Judicial management.

18B. (1) An order of the court in terms of paragraph (*d*) of subsection (3) of section 18A shall be subject to the provisions contained in the following subsections.

(2) The court shall appoint a judicial manager, who shall receive such remuneration as the court may direct, and the court may at any time cancel the appointment and appoint some other person as judicial manager.

(3) The judicial manager appointed to a scheme shall take over the whole management of the scheme, but, except with the leave of the court, he shall not admit any more members.

(4) The court shall issue such directions to the judicial manager as to his powers and duties as it deems desirable in the circumstances.

(5) The provisions of sections 427 to 440, inclusive, of the Companies Act, 1973 (Act No. 61 of 1973), shall apply *mutatis mutandis* in connection with the judicial management of a scheme under this Act, except in so far as those provisions are inconsistent with any provision of this Act or with any direction issued by the court under this section.

(6) The judicial manager shall act under the control of the court, and he may apply to the court at any time for instructions as to the manner in which he shall carry out the judicial management.

(7) The judicial manager shall give the registrar such information as the latter may require from time to time, and shall, whenever he intends to apply to the court for instructions, report accordingly to the registrar, who shall be entitled to be heard personally or through a representative at any such application, and may himself make an application to the court with reference to the conduct of the judicial management.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

enige ander persoon wat aan die skema geldelike bystand verleen het, of voornemens is om dit te doen, en maak hy, onderworpe aan bedoelde oorwegings, die bevel wat hy vir die lede van die skema die voordeligste ag.

(5) Wanneer 'n hof ooreenkomstig paragraaf (*b*) van subartikel (3) ten opsigte van 'n skema 'n bevel uitgevaardig het, kan hy te eniger tyd daarna ooreenkomstig paragraaf (*c*), (*d*) of (*e*) van daardie subartikel ten opsigte van daardie skema 'n bevel uitvaardig, en wanneer 'n hof ooreenkomstig paragraaf (*d*) van subartikel (3) ten opsigte van 'n skema 'n bevel uitgevaardig het, kan hy te eniger tyd daarna ooreenkomstig paragraaf (*e*) van daardie subartikel ten opsigte van daardie skema 'n bevel uitvaardig.

(6) Ondanks andersluidende bepalings in die reëls van die skema vervat, tree 'n bevel van die hof wat ooreenkomstig paragraaf (*c*) van subartikel (3) uitgevaardig is in werking vanaf 'n datum vir daardie doel in die bevel vermeld, of indien geen datum aldus vermeld is nie, vanaf die datum van daardie bevel, en daarop word bedoelde reëls geag op die deur die hof bepaalde wyse gewysig te wees.

(7) Tensy die hof anders beveel, moet die koste van die registrateur met of in verband met 'n aansoek ooreenkomstig hierdie artikel deur die skema betaal word en sodanige koste geniet voorkeur bo ander laste teen die bates van die skema.

(8) 'n Geregistreerde skema word nie onder geregtelike bestuur geplaas of gelikwideer of ontbind nie, behalwe kragtens die bepalings van hierdie Wet.

Geregtelike bestuur.

18B. (1) 'n Bevel van die hof kragtens paragraaf (*d*) van subartikel (3) van artikel 18A is onderworpe aan die bepalings in die volgende subartikels vervat.

(2) Die hof stel 'n geregtelike bestuurder aan wat die besoldiging ontvang wat die hof vasstel, en die hof kan te eniger tyd die aanstelling intrek en iemand anders as geregtelike bestuurder aanstel.

(3) Die geregtelike bestuurder wat vir 'n skema aangestel is, moet die hele bestuur van die skema oorneem, maar behalwe met die verlof van die hof mag hy nie meer lede toelaat nie.

(4) Die hof reik aan die geregtelike bestuurder die voorskrifte met betrekking tot sy bevoegdhede en pligte uit wat die hof in die omstandighede wenslik ag.

(5) Die bepalings van artikels 427 tot en met 440 van die Maatskappywet, 1973 (Wet No. 61 van 1973), is *mutatis mutandis* van toepassing in verband met die geregtelike bestuur van 'n skema kragtens hierdie Wet, behalwe vir sover daardie bepalings strydig is met enige bepaling van hierdie Wet of met enige voorskrif kragtens hierdie artikel deur die hof uitgevaardig.

(6) Die geregtelike bestuurder handel onder toesig van die hof, en kan te eniger tyd by die hof aansoek doen om instruksies aangaande die wyse waarop hy die geregtelike bestuur moet uitvoer.

(7) Die geregtelike bestuurder moet aan die registrateur die inligting verstrek wat laasgenoemde van tyd tot tyd verlang, en moet wanneer hy voornemens is om by die hof om instruksies aansoek te doen die registrateur dienooreenkomstig in kennis stel en die registrateur is geregtig om by so 'n aansoek persoonlik of deur middel van 'n verteenwoordiger aangehoor te word en kan self 'n aansoek met betrekking tot die uitvoering van die geregtelike bestuur aan die hof doen.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(8) The judicial manager shall as soon as possible report to the court which of the following courses he deems most advantageous to members of the scheme, that is to say—

(*a*) the transfer of the whole or of a part of the business of the scheme to some other person;

(*b*) the carrying on of the scheme with such alterations in benefits, contributions or conditions or in other respects as he may deem advisable;

(*c*) the winding-up of the business or of a part of the business of the scheme;

(*d*) such other course as he may deem advisable.

(9) The court shall consider the report of the judicial manager and shall decide upon the course it considers most advantageous to members of the scheme, and an order containing the decision of the court shall be binding on all persons and shall have effect notwithstanding anything in the rules of the scheme: Provided that if the court orders the winding-up of the business or any part of the business of the scheme, the provisions of section 18C shall apply to such winding-up.

Winding-up by the court.

18C. (1) An order of the court in terms of paragraph (*e*) of subsection (3) of section 18A, or an order under subsection (9) of section 18B for the winding-up of a scheme, shall be subject to the provisions contained in the following subsections.

(2) The provisions of sections 337 to 426, inclusive, of the Companies Act, 1973, shall apply *mutatis mutandis* to a winding-up under this section in so far as the said provisions relate to a winding-up by the court in terms of the said Act, and in so far as the said provisions are applicable and not inconsistent with any provision of this Act or with any direction issued by the court under this section.

(3) The court may direct that the aforementioned provisions of the Companies Act, 1973, may, for the purposes of the winding-up, be suitably modified in any particular case if the court is satisfied that having regard to the circumstances of the scheme concerned, it would be impracticable or unnecessarily onerous to comply with the said provisions in every particular, and that in spite of such modification the interests of the creditors of the scheme will be sufficiently safeguarded.

(4) Without prejudice to the powers of the Master who has jurisdiction in respect of any winding-up the liquidator appointed in terms of subsection (2) shall give the registrar such information as the latter may require from time to time, and shall, whenever he intends to apply to the court for instructions, report accordingly to the registrar who shall be entitled to be heard personally or through a representative at any such application, and may himself make an application to the court with reference to the winding-up.

(5) In the winding-up of the whole or any part of the business of a scheme, the value of the interests of the members of the scheme and the value of any benefits due by the scheme to persons other than members, shall be ascertained in such manner as the court may direct.

(6) If, where the court has ordered that the whole business of the scheme be wound up, the registrar is satisfied that the winding-up of such a scheme has

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(8) Die geregtelike bestuurder moet so spoedig moontlik aan die hof verslag doen aangaande welke van die volgende stappe hy die voordeligste vir lede van die skema beskou, te wete—

(*a*) die oordrag van die hele saak of 'n gedeelte van die saak van die skema aan 'n ander persoon;

(*b*) die voortsetting van die skema met die wysigings aangaande voordele, bydraes of voorwaardes, of in ander opsigte, wat hy raadsaam ag;

(*c*) die likwidasie van die saak of 'n deel van die saak van die skema;

(*d*) die ander stappe wat hy raadsaam ag.

(9) Die hof oorweeg die verslag van die geregtelike bestuurder en beslis oor die stappe wat volgens oordeel van die hof die voordeligste is vir lede van die skema, en 'n bevelskrif wat die beslissing van die hof behels, is bindend vir alle persone, en geld ondanks enige bepaling in die reëls van die skema: Met dien verstande dat as die hof beveel dat die saak of enige deel van die saak van die skema gelikwideer moet word, die bepalings van artikel 18C op so 'n likwidasie van toepassing is.

Likwidasie deur die hof.

18C. (1) 'n Bevel van die hof kragtens paragraaf (*e*) van subartikel (3) van artikel 18A of 'n bevel kragtens subartikel (9) van artikel 18B vir die likwidasie van 'n skema is onderworpe aan die bepalings in die volgende subartikels vervat.

(2) Die bepalings van artikels 337 tot en met 426 van die Maatskappywet, 1973, is, vir sover bedoelde bepalings op 'n likwidasie deur die hof ooreenkomstig genoemde Wet betrekking het, en vir sover bedoelde bepalings toepaslik is en nie met een of ander bepaling van hierdie Wet of met 'n voorskrif deur die hof kragtens hierdie artikel uitgevaardig, onbestaanbaar is nie, *mutatis mutandis* op 'n likwidasie ingevolge hierdie artikel van toepassing.

(3) Die hof kan beveel dat voormelde bepalings van die Maatskappywet, 1973, vir die doeleindes van die likwidasie in 'n bepaalde geval paslik gewysig kan word indien die hof oortuig is dat dit met inagneming van die omstandighede van die betrokke skema onprakties of onnodig beswarend sou wees om in elke besonderheid aan bedoelde bepalings te voldoen, en dat ondanks sodanige wysiging die belange van die skuldeisers van die skema voldoende beskerm sal word.

(4) Sonder om afbreuk te doen aan die bevoegdhede van die Meester wat ten opsigte van 'n likwidasie jurisdiksie het, moet die likwidateur wat ingevolge subartikel (2) aangestel word, aan die registrateur die inligting verstrek wat laasgenoemde van tyd tot tyd verlang, en moet hy wanneer hy voornemens is om by die hof om instruksies aansoek te doen, die registrateur dienooreenkomstig in kennis stel, en die registrateur is geregtig om persoonlik of deur middel van 'n verteenwoordiger by so 'n aansoek aangehoor te word, en kan self met betrekking tot die likwidasie by die hof 'n aansoek doen.

(5) By die likwidasie van die hele saak of enige gedeelte van die saak van 'n skema word die waarde van die belange van die lede van die skema en die waarde van enige voordele wat deur die skema aan ander persone as lede verskuldig is op 'n deur die hof voorgeskrewe wyse vasgestel.

(6) Indien, waar die hof beveel het dat die hele saak van die skema gelikwideer moet word, die registrateur oortuig is dat die likwidasie van sodanige

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

been completed, he shall cancel the registration of the scheme and thereupon the scheme shall be deemed to be dissolved.

Voluntary or automatic dissolution of scheme.

18D. (1) If the rules of a registered scheme provide for the dissolution or termination of such scheme upon the expiry of a period or upon the occurrence of an event, or upon a resolution by the members of the scheme that such scheme shall be terminated, then upon the expiry of such period, or the occurrence of such event, or the passing of such resolution, such scheme shall, subject to the provisions of this section, be liquidated in the manner provided by such rules, and the assets of the scheme shall, subject to the provisions of this section, be distributed in the manner provided by the said rules.

(2) As soon as such period has expired or such event has occurred or such resolution has been passed a person approved by the registrar shall be appointed as liquidator in the manner directed by the rules, or, if the rules do not contain directions as to such appointment, by the person managing the business of the scheme, and the liquidation shall be deemed to commence as from the date of such approval.

(3) During such liquidation the provisions of this Act shall continue to apply to such scheme as if the liquidator were the person managing the business of the scheme.

(4) The liquidator shall as soon as may be deposit with the registrar a preliminary account and a preliminary balance sheet signed and certified by him as correct, showing the assets and liabilities of the scheme at the commencement of the liquidation and the manner in which it is proposed to realize the assets and to discharge the liabilities, including any liabilities and contingent liabilities to or in respect of members.

(5) The registrar may, in his discretion, direct the liquidator to furnish a report, drawn up by an independent valuator or other competent person nominated by the registrar, upon the preliminary account and preliminary balance sheet.

(6) The preliminary account, preliminary balance sheet and report (if any) referred to in subsection (5), shall lie open at the office of the registrar, and at the registered office of such scheme, and where the registered office of the scheme is in any district other than the district wherein the office of the registrar is situate, at the office of the magistrate of the district in which the registered office of the scheme is situate, for inspection by interested persons for a period of thirty days.

(7) The registrar shall, at the cost of such scheme, cause to be published in the *Gazette* or in a newspaper circulating in the district in which the registered office of such scheme is situate, or in both the *Gazette* and such newspaper, a notice stating the period during which and the places at which the preliminary account, preliminary balance sheet and report (if any) shall lie open for inspection as aforesaid, and such notice shall call upon all interested persons who have any objection to the said preliminary account, preliminary balance sheet and report (if any) to lodge their objections in writing with the registrar within a period stated in the

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

skema voltooi is, moet hy die registrasie van die skema intrek, en daarop word die skema geag ontbind te wees.

Vrywillige of outomatiese ontbinding van skema.

18D. (1) Indien die reëls van 'n geregistreerde skema bepaal dat so 'n skema ontbind of beëindig word wanneer 'n tydperk verstryk of 'n gebeurtenis plaasvind, of by besluit van die lede van die skema dat daardie skema beëindig moet word, word daardie skema, behoudens die bepalings van hierdie artikel, op die deur bedoelde reëls bepaalde wyse gelikwideer wanneer bedoelde tydperk verstryk of bedoelde gebeurtenis plaasvind of bedoelde besluit geneem word, en word, onderworpe aan die bepalings van hierdie artikel, die bates van die skema verdeel op die wyse deur bedoelde reëls bepaal.

(2) Sodra bedoelde tydperk verstryk het of bedoelde gebeurtenis plaasgevind het of bedoelde besluit geneem is, word 'n deur die registrateur goedgekeurde persoon as likwidateur aangestel op die wyse deur die reëls bepaal of, as die reëls geen bepalings omtrent so 'n aanstelling bevat nie, deur die persoon wat die sake van die skema bestuur, en die likwidasie word geag vanaf die datum van sodanige goedkeuring te begin.

(3) Gedurende so 'n likwidasie bly die bepalings van hierdie Wet van toepassing op so 'n skema asof die likwidateur die persoon is wat die sake van die skema bestuur.

(4) Die likwidateur dien so spoedig doenlik by die registrateur 'n voorlopige rekening en 'n voorlopige balansstaat in wat deur hom onderteken en as korrek gesertifiseer is en wat die bates en laste van die skema by die aanvang van die likwidasie aantoon, en die wyse waarop voorgestel word om die bates tot geld te maak en die laste te vereffen, met inbegrip van enige laste en voorwaardelike laste wat teenoor of ten opsigte van lede bestaan.

(5) Die registrateur kan na goeddunke gelas dat die likwidateur 'n verslag oor die voorlopige rekening en voorlopige balansstaat lewer, wat deur 'n onafhanklike waardeerder of 'n ander deur die registrateur benoemde bevoegde persoon opgestel is.

(6) Die in subartikel (5) bedoelde voorlopige rekening, voorlopige balansstaat en verslag (as daar is) word by die kantoor van die registrateur en by die geregistreerde kantoor van so 'n skema, en wanneer die geregistreerde kantoor van die skema in 'n ander distrik is as die distrik waarin die kantoor van die registrateur geleë is, by die kantoor van die landdros van die distrik waarin die geregistreerde kantoor van die skema geleë is, beskikbaar gestel vir insae deur belanghebbende persone vir 'n tydperk van dertig dae.

(7) Die registrateur laat op rekening van so 'n skema in die *Staatskoerant* of in 'n nuusblad in omloop in die distrik waarin die geregistreerde kantoor van so 'n skema geleë is, of in beide die *Staatskoerant* en so 'n nuusblad, 'n kennisgewing publiseer waarin die tydperk gedurende welke en die plekke waar die voorlopige rekening, voorlopige balansstaat en verslag (as daar is) vir insae soos voormeld beskikbaar sal wees, bekend gemaak word, en sodanige kennisgewing moet alle belanghebbende persone wat enige beswaar teen bedoelde voorlopige rekening, voorlopige balansstaat en verslag (as daar is) het, aansê om hulle besware skriftelik by die registrateur in te dien binne 'n in die kennisgewing vermelde tydperk,

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

notice, not being less than fourteen days as from the last day on which the aforesaid documents lie open for inspection.

(8) If no objections are lodged with the registrar in terms of subsection (7), he shall direct the liquidator to complete the liquidation.

(9) If objections are lodged with the registrar in terms of subsection (7), the registrar may, after considering the said objections, direct the liquidator to amend the preliminary account and preliminary balance sheet, or give such other directions relating to the liquidation as he thinks fit, provided such directions are not inconsistent with the rules of the scheme, and any such directions shall be binding upon the liquidator.

(10) The liquidator shall, within fourteen days of the receipt by him of any direction of the registrar in terms of subsection (9), post a copy thereof to every member, shareholder and creditor of the scheme, and the liquidator or any person aggrieved by any such direction of the registrar may apply by motion to the court within twenty-eight days after such direction has been communicated to the liquidator, for an order setting aside the registrar's decision, and the court may confirm the said decision, or make such order as it thinks fit.

(11) If the registrar is satisfied that his directions, in so far as they have not been varied or set aside by the court, have been given effect to, he shall direct the liquidator to complete the liquidation.

(12) The liquidator shall, within thirty days after the completion of the liquidation, lodge with the registrar a final account and a final balance sheet, signed and certified by him as correct, showing the assets and liabilities of the scheme at the commencement of the liquidation and the manner in which the assets have been realized and the liabilities, including any liabilities and contingent liabilities to or in respect of members, have been discharged.

(13) The provisions of sections 337 to 426, inclusive, of the Companies Act, 1973, in so far as those provisions relate to a voluntary winding-up in terms of the said Act, and in so far as they are not inconsistent with the provisions of this Act, shall apply *mutatis mutandis* to the dissolution of a scheme in terms of this section.

(14) All claims against the scheme shall be proved to the satisfaction of the liquidator, subject to a right of appeal to the court, and the liquidator may require any claim to be made on affidavit.

(15) If the registrar is satisfied that the said account and balance sheet are correct and that the liquidation has been completed, he shall cancel the registration of the scheme and thereupon such scheme shall be deemed to be dissolved.

Special provisions relating to liquidation of schemes.

18E. In applying the provisions of the Companies Act, 1973, in terms of section 18C or 18D—

(*a*) the members of a scheme shall be treated as deferred creditors, and their claims against the scheme in their capacity as members shall not be settled until the debts of ordinary creditors have been paid;

(*b*) any reference to the Consolidated Revenue Fund shall, in relation to a scheme carrying on business in the territory of South West Africa, be deemed to be a reference to the Revenue

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

wat nie minder as veertien dae vanaf die laaste dag waarop voormelde dokumente vir insae beskikbaar is, moet wees nie.

(8) Indien geen besware ingevolge subartikel (7) by die registrateur ingedien word nie, moet hy die likwidateur gelas om die likwidasie te voltooi.

(9) Indien ingevolge subartikel (7) besware by die registrateur ingedien is, kan die registrateur, nadat hy daardie besware oorweeg het, die likwidateur beveel om die voorlopige rekening en voorlopige balansstaat te wysig, of die ander opdragte aangaande die likwidasie gee wat hy goed vind, mits sulke opdragte nie met die reëls van die skema onbestaanbaar is nie, en so 'n opdrag bind die likwidateur.

(10) Binne veertien dae nadat hy 'n opdrag van die registrateur ingevolge subartikel (9) ontvang het, moet die likwidateur 'n afskrif daarvan per pos aan elke lid, aandeelhouer en skuldeiser van die skema stuur, en die likwidateur, of iemand wat teen so 'n opdrag van die registrateur beswaar het, kan binne agt-en-twintig dae nadat bedoelde opdrag aan die likwidateur meegedeel is, by mosie 'n bevel van die hof aanvra wat die registrateur se beslissing ter syde stel, en die hof kan bedoelde beslissing bekragtig of die bevel uitreik wat hy wenslik ag.

(11) Indien die registrateur oortuig is dat sy bevele, vir sover hulle nie deur die hof gewysig of ter syde gestel is nie, uitgevoer is, moet hy die likwidateur gelas om die likwidasie te voltooi.

(12) Die likwidateur moet, binne dertig dae na die voltooiing van die likwidasie, by die registrateur 'n finale rekening en 'n finale balansstaat indien wat deur hom onderteken en as korrek gesertifiseer is en wat die bates en laste van die skema by die aanvang van die likwidasie aantoon, en die wyse waarop die bates tot geld gemaak en die laste, met inbegrip van laste en voorwaardelike laste teenoor of ten opsigte van lede, vereffen is.

(13) Die bepalings van artikels 337 tot en met 426 van die Maatskappywet, 1973, is, vir sover daardie bepalings op 'n vrywillige likwidasie ooreenkomstig daardie Wet betrekking het en vir sover hulle nie met die bepalings van hierdie Wet onbestaanbaar is nie, *mutatis mutandis* op die ontbinding van 'n skema ooreenkomstig hierdie artikel van toepassing.

(14) Alle eise teen die skema moet tot bevrediging van die likwidateur bewys word, behoudens 'n reg van appèl na die hof, en die likwidateur kan verlang dat enige eis beëdig moet wees.

(15) Indien die registrateur oortuig is dat bedoelde rekening en balansstaat korrek is en dat die likwidasie voltooi is, moet hy die registrasie van die skema intrek, en daarop word so 'n skema geag ontbind te wees.

Buitengewone bepalings aangaande likwidasie van skemas.

18E. By die toepassing van die bepalings van die Maatskappywet, 1973, ingevolge artikel 18C of 18D—

(*a*) word die lede van 'n skema as uitgestelde skuldeisers behandel en word hulle vorderings teen die skema in hulle hoedanigheid van lede nie vereffen nie totdat die skulde van die gewone skuldeisers betaal is;

(*b*) word 'n verwysing na die Gekonsolideerde Inkomstefonds met betrekking tot 'n skema wat in die gebied Suidwes-Afrika sake doen, geag 'n verwysing na die Inkomstefonds ingestel by

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Fund established by section 31 of the South West Africa Constitution Act, 1968 (Act No. 39 of 1968).".

Substitution of Section 19 of Act 72 of 1967.

12. The following section is hereby substituted for section 19 of the principal Act:

"Limitation on business which may be carried on by a medical scheme.

19. No medical scheme which was not in existence immediately prior to the commencement of this Act, shall carry on any business other than the business of a medical scheme: Provided that the registrar may approve of a scheme carrying on such other business on such conditions and for such period as he may determine if the registrar is satisfied that this is necessary in order to safeguard an investment made by the scheme, and no medical scheme which was in existence immediately prior to the commencement of this Act shall, after such commencement, enrol or admit any person as a member in respect of any business other than the business of a medical scheme.".

Amendment of section 19A of Act 72 of 1967, as inserted by section 9 of Act 95 of 1969.

13. Section 19A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) If any subscription or contribution is under the rules of a medical scheme payable by a member in respect of the benefits to which he is entitled as a member, the scheme shall establish a benefit fund into which shall be paid every amount—

(*a*) received by way of any such subscription or contribution;

(*b*) received by way of any contribution which may be so payable by an employer of such member in respect of such member.".

Amendment of section 20 of Act 72 of 1967, as amended by section 10 of Act 95 of 1969.

14. Section 20 of the principal Act is hereby amended—

(*a*) by the substitution for paragraph (*b*) of the following paragraph:

"(*b*) that its members are entitled to such minimum and such maximum benefits as may from time to time be prescribed;";

(*b*) by the substitution for paragraph (*d*) of the following paragraph:

"(*d*) for the continuation, subject to the prescribed conditions, of the membership of a member who retires on pension or whose employment is terminated by his employer on account of age, ill-health or other disability;";

(*c*) by the substitution for paragraph (*f*) of the following paragraph:

"(*f*) for the admission, as from the date of receipt of the application for membership, to the scheme as a member thereof, subject to the terms and conditions applicable to the admission of other members, but without a waiting period or the imposition of new restrictions on account of the state of his health or the health of any of his dependants, of any person who—

(i) has been a member of any other registered medical scheme for a continuous period of at least two years and whose application for membership of the firstmentioned scheme is necessitated by his changing of employment; or

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

artikel 31 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet No. 39 van 1968), te wees.".

Vervanging van artikel 19 van Wet 72 van 1967.

12. Artikel 19 van die Hoofwet word hierby deur die volgende artikel vervang:

„Beperking op sake wat deur 'n mediese skema gedoen kan word.

19. Geen mediese skema wat nie onmiddellik voor die inwerkingtreding van hierdie Wet bestaan het nie, mag sake doen nie behalwe die sake van 'n mediese skema: Met dien verstande dat die registrateur kan goedkeur dat 'n skema die ander sake op die voorwaardes en vir die tydperk wat hy bepaal, doen indien die registrateur oortuig is dat dit nodig is ten einde 'n belegging deur die skema gemaak, te beskerm, en geen mediese skema wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan het, mag na bedoelde inwerkingtreding iemand as lid ten opsigte van sake behalwe die sake van 'n mediese skema inskryf of toelaat nie.".

Wysiging van artikel 19A van Wet 72 van 1967, soos ingevoeg deur artikel 9 van Wet 95 van 1969.

13. Artikel 19A van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Indien ledegeld of 'n bydrae kragtens die reëls van 'n mediese skema deur 'n lid betaalbaar is ten opsigte van die voordele waarop hy as lid geregtig is, moet die skema 'n voordelefonds instel waarin iedere bedrag—

(*a*) wat by wyse van sodanige ledegeld of bydrae ontvang word;

(*b*) wat by wyse van enige bydrae ontvang word wat deur 'n werkgewer van so 'n lid ten opsigte van so 'n lid aldus betaalbaar mag wees,

gestort moet word.".

Wysiging van artikel 20 van Wet 72 van 1967, soos gewysig deur artikel 10 van Wet 95 van 1969.

14. Artikel 20 van die Hoofwet word hierby gewysig—

(*a*) deur paragraaf (*b*) deur die volgende paragraaf te vervang:

„(*b*) dat sy lede geregtig is op die minimum en die maksimum voordele wat van tyd tot tyd voorgeskryf word;";

(*b*) deur paragraaf (*d*) deur die volgende paragraaf te vervang:

„(*d*) vir die voortsetting, onderworpe aan die voorgeskrewe voorwaardes, van die lidmaatskap van 'n lid wat met pensioen aftree of wie se dienste deur sy werkgewer beëindig word vanweë ouderdom, swak gesondheid of ander ongeskiktheid;";

(*c*) deur paragraaf (*f*) deur die volgende paragraaf te vervang:

„(*f*) vir die toelating, vanaf die datum van ontvangs van die aansoek om lidmaatskap, tot die skema as 'n lid daarvan, onderworpe aan die bedinge en voorwaardes op die toelating van ander lede van toepassing, maar sonder 'n wagperiode of die oplegging van nuwe beperkings vanweë sy gesondheidstoestand of dié van enige van sy afhanklikes, van iemand wat—

(i) vir 'n ononderbroke tydperk van minstens twee jaar lid van 'n ander geregistreerde mediese skema was en wie se aansoek om lidmaatskap van die eersgenoemde skema genoodsaak word deur sy verandering van werk; of

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(ii) has, for a continuous period of not less than two years, been a dependant of a person who, during that period, has been a member of that scheme or any other scheme,

and who applies within three months after the date on which he ceased to be a member of such other scheme or a dependant of a member of that scheme or such other scheme, as the case may be, to become a member;";

(*d*) by the deletion of the word "and" appearing at the end of paragraph (*g*) and by the addition of the following paragraphs:

"(*i*) for the appointment, removal from office, powers and remuneration (if any) of officers of the scheme;

(*j*) for the powers of investment of funds;

(*k*) in the case where the scheme is entitled to receive contributions from its members towards the expenses of management and such contributions are payable under a separate table, for the maintenance of a separate account of such expenses and contributions;

(*l*) for the manner in which contracts and other documents binding the scheme shall be executed;

(*m*) for the custody of the securities, books, papers and other effects of the scheme;

(*n*) for the appointment of the auditor of the scheme and the duration of such appointment;

(*o*) subject to the provisions of this Act, for the manner in which and the circumstances under which a scheme shall be terminated or dissolved;

(*p*) for the appointment of a liquidator in the case of a voluntary dissolution;

(*q*) for the manner of calling the annual general meeting and special general meetings of members, the quorum necessary for the transaction of business at such meetings and the manner of voting thereat."; and

(*e*) by the addition of the following subsection, the existing section becoming subsection (1):

"(2) If the members of a scheme who are members of that scheme by virtue of their employment by a particular employer terminate their membership of the said scheme with the object of obtaining membership of another scheme or of establishing a new scheme, such other or new scheme shall, if so requested by such firstmentioned scheme, admit as a member, without a waiting period or the imposition of new restrictions on account of the state of his health or the health of any of his dependants, any member of such firstmentioned scheme who—

(*a*) is a pensioner;

(*b*) is the widow of a member of such scheme; or

(*c*) had been a dependant of a member of such scheme,

and who obtained membership of such firstmentioned scheme by virtue of such member or the person from whom such member derived his membership having been in the employ of the said employer.".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(ii) vir 'n ononderbroke tydperk van minstens twee jaar 'n afhanklike was van iemand wat gedurende dié tydperk 'n lid van daardie skema of 'n ander skema was,

en wat binne drie maande na die datum waarop hy opgehou het om 'n lid van sodanige ander skema of 'n afhanklike van 'n lid van daardie skema of sodanige ander skema, na gelang van die geval, te wees, aansoek doen om lid te word;";

(*d*) deur die woord „en" wat aan die einde van paragraaf (*g*) verskyn, te skrap en deur die volgende paragrawe by te voeg:

„(*i*) vir die aanstelling, ontslag, bevoegdhede en besoldiging (as daar is) van beamptes van die skema;

(*j*) vir die bevoegdhede ten opsigte van die belegging van fondse;

(*k*) in die geval waar die skema geregtig is om bydraes tot die bestuurskoste van sy lede te ontvang, en sulke bydraes onder 'n afsonderlike tabel betaalbaar is, vir die hou van 'n afsonderlike rekening ten opsigte van bedoelde onkoste en bydraes;

(*l*) vir die wyse waarop kontrakte en ander stukke wat die skema bind, verly moet word;

(*m*) vir die bewaring van die sekuriteite, boeke, stukke en ander besittings van die skema;

(*n*) vir die aanstelling van die ouditeur van die skema en die duur van so 'n aanstelling;

(*o*) behoudens die bepalings van hierdie Wet, vir die wyse waarop en die omstandighede waaronder die skema beëindig of ontbind moet word;

(*p*) vir die aanstelling van 'n likwidateur in die geval van 'n vrywillige ontbinding;

(*q*) vir die wyse waarop die jaarlikse algemene vergadering en buitengewone algemene vergaderings van lede belê word, die kworum nodig vir die verrigting van sake by sodanige vergaderings, en die manier waarop by sodanige vergaderings gestem word."; en

(*e*) deur die volgende subartikel by te voeg terwyl die bestaande artikel subartikel (1) word:

„(2) Indien die lede van 'n skema wat lede van daardie skema is uit hoofde van hul emplojering deur 'n bepaalde werkgewer hul lidmaatskap van bedoelde skema beëindig met die oogmerk om lidmaatskap van 'n ander skema te verwerf of om 'n nuwe skema tot stand te bring, moet daardie ander of nuwe skema, indien hy deur die eersgenoemde skema daarom versoek word, 'n lid van daardie eersgenoemde skema wat—

(*a*) 'n pensioentrekker is;

(*b*) die weduwee van 'n lid van daardie skema is; of

(*c*) 'n afhanklike van 'n lid van daardie skema was,

en wat lidmaatskap van daardie eersgenoemde skema verwerf het uit hoofde daarvan dat daardie lid of die persoon aan wie daardie lid sy lidmaatskap ontleen het in die diens van die bedoelde werkgewer was, sonder 'n wagperiode of die oplegging van nuwe beperkings vanweë sy gesondheidstoestand of dié van enige van sy afhanklikes, as 'n lid toelaat.".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Insertion of sections 20A, 20B and 20C in Act 72 of 1967.

15. The following sections are hereby inserted in the principal Act after section 20:

"Other provisions connected with the rules of medical schemes.

20A. (1) If the rules of a registered scheme so provide, a minor may be a member, and any such member may, without assistance if he has attained the age of sixteen years, or assisted by his parent or guardian if he is under that age, execute all necessary documents and give all necessary acquittances, but he shall not manage the affairs or be the principal officer of such scheme.

(2) A married woman, whether under marital power or not, may without her husband's consent be a member of a scheme, and may without assistance execute all necessary documents and give all necessary acquittances, and any benefit granted to her shall, as between the husband and the wife, be her sole and separate property free from his control, and she shall furthermore, unless otherwise provided by the rules, be qualified to be an officer of a scheme.

(3) Except where the accounts of a scheme are to be audited by the Controller and Auditor-General or a Provincial Auditor in terms of the provisions of any law, every registered scheme shall in the manner prescribed by its rules appoint an auditor registered under the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), who shall not be an officer of the scheme: Provided that if an auditor so registered is not readily available the registrar may at the request of the scheme approve of the appointment of a person nominated by the scheme, to act as auditor of the scheme, or if the registrar is not satisfied that the nominated person is suitable to act as auditor of the scheme, he may appoint as auditor any other person whom he considers suitable.

Investments.

20B. (1) Subject to the provisions of this section and the regulations, a registered scheme may invest its funds in any manner provided by its rules.

(2) Assets equal in value to at least forty per cent of the aggregate value of all the assets of a registered scheme shall be held in the Republic in one or more of the following classes of assets, namely—

(*a*) money in hand in the Republic;

(*b*) any amount standing to the credit of the scheme concerned in an account with an office in the Republic of a banking institution as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965), or with a building society registered in terms of the provisions of the Building Societies Act, 1965 (Act No. 24 of 1965), or with the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949), or with the Post Office Savings Bank;

(*c*) bills, bonds or securities issued or guaranteed by the Government of the Republic or a provincial administration;

(*d*) bills, bonds or securities issued or guaranteed by or deposits with any local authority in the Republic authorized by law to levy rates upon immovable property;

(*e*) bills, bonds or securities issued or guaranteed by the Rand Water Board or the Electricity Supply Commission or by any institution which

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Invoeging van artikels 20A, 20B en 20C in Wet 72 van 1967.

15. Die volgende artikels word hierby in die Hoofwet na artikel 20 ingevoeg:

„Ander voorskrifte wat verband hou met die reëls van mediese skemas.

20A. (1) Indien die reëls van 'n geregistreerde skema aldus bepaal, kan 'n minderjarige 'n lid wees, en so 'n lid kan as hy die leeftyd van sestien jaar bereik het, sonder bystand, of as hy daardie leeftyd nie bereik het nie, bygestaan deur sy ouer of voog, alle nodige stukke verly en alle nodige ontvangsbewyse gee, maar hy kan nie die sake van so 'n skema bestuur of hoofbeampte daarvan wees nie.

(2) 'n Getroude vrou, hetsy onder maritale mag al dan nie, kan sonder toestemming van haar eggenoot 'n lid van 'n skema wees, en kan sonder bystand alle nodige stukke verly en alle nodige ontvangsbewyse gee, en 'n voordeel aan haar verleen, is, tussen eggenoot en eggenote, haar eie afsonderlike eiendom, en nie aan sy beheer onderworpe nie, en, tensy die reëls anders bepaal, is sy ook bevoeg om 'n beampte van 'n skema te wees.

(3) Behalwe waar die rekenings van 'n skema ingevolge een of ander wetsbepaling deur die Kontroleur en Ouditeur-generaal of 'n Provinsiale Ouditeur geouditeer moet word, moet elke geregistreerde skema 'n ouditeur wat kragtens die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), geregistreer is en wat nie 'n beampte van die skema mag wees nie, aanstel soos voorgeskryf in sy reëls: Met dien verstande dat as 'n aldus geregistreerde ouditeur nie geredelik beskikbaar is nie die registrateur op versoek van die skema die aanstelling van 'n persoon deur die skema genomineer om as ouditeur van die skema op te tree, kan goedkeur, of, indien die registrateur nie oortuig is dat die genomineerde persoon geskik is om as ouditeur van die skema op te tree nie, kan hy enige ander persoon wat hy geskik ag, as ouditeur aanstel.

Beleggings.

20B. (1) Behoudens die bepalings van hierdie artikel en die regulasies, kan 'n geregistreerde skema sy fondse op enige deur sy reëls bepaalde wyse belê.

(2) Bates gelyk in waarde aan minstens veertig persent van die totale waarde van al die bates van 'n geregistreerde skema moet in een of meer van die volgende klasse van bates in die Republiek gehou word, te wete—

(*a*) geld in kas in die Republiek;

(*b*) 'n batige saldo van die betrokke skema in 'n rekening by 'n kantoor in die Republiek van 'n bankinstelling soos in artikel 1 van die Bankwet, 1965 (Wet No. 23 van 1965), omskryf of by 'n bouvereniging geregistreer ingevolge die bepalings van die Bouverenigingswet, 1965 (Wet No. 24 van 1965), of by die Nasionale Finansiekorporasie van Suid-Afrika ingestel kragtens die Wet op die Nasionale Finansiekorporasie, 1949 (Wet No. 33 van 1949), of by die Posspaarbank;

(*c*) wissels, skuldbriewe of effekte deur die Regering van die Republiek of 'n provinsiale administrasie uitgereik of gewaarborg;

(*d*) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of deposito's by 'n plaaslike bestuur in die Republiek wat regtens bevoeg is om belastings op onroerende goed te hef;

(*e*) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur die Randwaterraad of die Elektrisiteitsvoorsieningskommissie of deur 'n

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

is, in the opinion of the registrar, financially sound and which has been approved by him;

(*f*) deposits with, or debentures quoted on a stock exchange in the Republic issued by, the Land and Agricultural Bank of South Africa;

(*g*) South African Reserve Bank stock.

(3) For the purposes of subsection (2) the aggregate value of the assets of a scheme shall not include the value of any policies of insurance issued by a person lawfully carrying on insurance business within the meaning of the Insurance Act, 1943 (Act No. 27 of 1943).

(4) A registered scheme shall not be deemed to hold an asset for the purposes of subsection (2) if such asset is in any way encumbered.

(5) A registered scheme may, if its rules so provide—

(*a*) make donations to any hospital, nursing home, infirmary or home for aged persons in the interest of any of its members;

(*b*) grant loans to any of its members or make *ex gratia* payments on behalf of members in order to assist such members to meet commitments in regard to any matter specified in paragraphs (*a*), (*b*) and (*c*) of the definition of "medical scheme" in section 1; and

(*c*) contribute to any association instituted under this Act or any fund of any kind whatsoever which is conducted for the benefit of the employees of the said registered scheme or take out and pay for insurance policies on the lives of employees of the said registered scheme for the benefit of such employees or their dependants.

Amalgamations and transfers.

20C. (1) No transaction involving the amalgamation of the business of a registered scheme with any business of any other person (irrespective of whether that other person is or is not a registered scheme) or the transfer of any business from a registered scheme to any other person or the transfer of any business from any other person to a registered scheme, shall be of any force or effect unless the amalgamation or transfer is carried out in accordance with the provisions of this section.

(2) The registered scheme shall deposit with the registrar a copy of the exposition of the proposed transaction, including a copy of every actuarial or other statement taken into account for the purposes of the proposed transaction, and shall furnish the registrar with particulars of the voting at any meeting of its members or shareholders at which the proposed transaction was considered and with such additional information as he may require: Provided that if two or more registered schemes are concerned in the proposed transaction, only one such scheme need furnish a copy of the exposition as aforesaid.

(3) If any party to the proposed transaction is not a registered scheme, but carries on insurance business in the Republic within the meaning of the Insurance Act, 1943, the registrar shall deposit with the Registrar of Insurance the copy of the exposition, particulars and information referred to in subsection (2), and the provisions of subsections (5) to (10),

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

instelling wat volgens die registrateur se oordeel geldelik gesond is en wat deur hom goedgekeur is;

(*f*) deposito's by, of obligasies op 'n effektebeurs in die Republiek genoteer en uitgereik deur, die Land- en Landboubank van Suid-Afrika;

(*g*) Suid-Afrikaanse Reserwebankaandele.

(3) By die toepassing van subartikel (2) word onder die totale waarde van al die bates van 'n skema nie die waarde van enige versekeringspolisse uitgereik deur iemand wat wettiglik versekeringsbesigheid binne die bedoeling van die Versekeringswet, 1943 (Wet No. 27 van 1943), dryf, ingereken nie.

(4) 'n Geregistreerde skema word by die toepassing van subartikel (2) nie geag 'n bate te hou nie indien sodanige bate enigsins beswaar is.

(5) 'n Geregistreerde skema kan, indien sy reëls aldus bepaal—

(*a*) aan enige hospitaal, verpleeginrigting, siekehuis of tehuis vir bejaardes in belang van enige van sy lede skenkings maak;

(*b*) lenings aan enige van sy lede toestaan of *ex gratia* betalings ten behoewe van lede maak ten einde sodanige lede te help om verpligtings in verband met enige aangeleentheid vermeld in paragrawe (*a*), (*b*) en (*c*) van die omskrywing van ,mediese skema' in artikel 1 na te kom; en

(*c*) tot 'n kragtens hierdie Wet ingestelde vereniging of 'n fonds van watter aard ook al, wat ten voordele van die werknemers van bedoelde geregistreerde skema bestuur word, bydra, of versekeringspolisse op die lewens van werknemers van bedoelde geregistreerde skema uitneem en daarvoor betaal tot voordeel van sodanige werknemers of hulle afhanklikes.

Samesmeltings en oordragte.

20C. (1) Geen transaksie vir die samesmelting van die saak van 'n geregistreerde skema met 'n saak van 'n ander persoon (ongeag of so 'n ander persoon 'n geregistreerde skema is al dan nie), of vir die oordrag van enige saak van 'n geregistreerde skema aan 'n ander persoon of vir die oordrag van enige saak van 'n ander persoon aan 'n geregistreerde skema is van krag nie, tensy die samesmelting of oordrag ooreenkomstig die bepalings van hierdie artikel uitgevoer word.

(2) Die geregistreerde skema moet by die registrateur 'n afskrif van die uiteensetting van die voorgestelde transaksie indien, asook 'n afskrif van elke aktuariële of ander opgawe vir die doeleindes van die voorgestelde transaksie in aanmerking geneem, en aan die registrateur besonderhede verstrek van die stemming by enige vergadering van sy lede of aandeelhouers waar die voorgestelde transaksie oorweeg is, en die addisionele inligting wat hy verlang: Met dien verstande dat as twee of meer geregistreerde skemas by die voorgestelde transaksie betrokke is, slegs een van daardie skemas 'n afskrif van die uiteensetting soos voormeld, hoef te verstrek.

(3) As een of ander party by die voorgestelde transaksie nie 'n geregistreerde skema is nie maar versekeringsbesigheid binne die bedoeling van die Versekeringswet, 1943, in die Republiek dryf, dien die registrateur by die Registrateur van Versekeringswese die in subartikel (2) bedoelde afskrif van die uiteensetting, besonderhede en inligting in, en is die bepalings van subartikels (5) tot en met (10) van

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

inclusive, of this section shall not apply, but the provisions of section 25 of the said Insurance Act shall apply as if the scheme were an insurer registered under the said Insurance Act, and as if the members of the scheme were the owners of policies of insurance issued by the scheme.

(4) If any party to the proposed transaction is not a registered scheme and does not carry on insurance business in the Republic within the meaning of the said Insurance Act, the registrar may require that party to furnish him with any information which is in possession of that party and which the registrar may specify.

(5) The registrar may, in his discretion, require any or all of the following provisions to be complied with namely—

(*a*) a report on the proposed transaction to be drawn up by an independent valuator or other competent person nominated by the registrar at the expense of the parties and furnished to the registrar who shall send a copy thereof to each of the parties to the proposed transaction;

(*b*) each of the said parties to send a copy of the exposition of the proposed transaction and of the report (if any) referred to in paragraph (*a*) to every member, shareholder and creditor of that party, or to such only of those members, shareholders and creditors as the registrar may direct;

(*c*) the parties to the proposed transaction to publish particulars thereof, in a form approved by the registrar, in the *Gazette* and in such newspaper or newspapers as the registrar may direct.

(6) Copies of the exposition of the proposed transaction and of the report (if any) referred to in paragraph (*a*) of subsection (5) shall, for such period of not less than twenty-one days as the registrar may specify, be made available for the inspection of any member, shareholder or creditor of any party to the proposed transaction or of any other person or body having an interest therein—

(*a*) at the registered office of any registered scheme concerned; and

(*b*) at the registered office or other principal place of business in the Republic of any other party.

(7) When the requirements of subsection (6) have been complied with, the registrar shall consider the exposition of the proposed transaction and thereafter he may—

(*a*) confirm it; or

(*b*) suggest that the parties to the proposed transaction modify the exposition in certain respects, and if they so modify the exposition he may confirm the exposition as modified; or

(*c*) decline to confirm it.

(8) If the registrar has declined to confirm the exposition, the parties to the proposed transaction may after not less than fourteen days' notice to the registrar, apply to the council for confirmation of the exposition.

(9) The registrar shall be entitled to be heard personally or through a representative at any such

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

hierdie artikel nie van toepassing nie, maar geld die bepalings van artikel 25 van bedoelde Versekeringswet asof die skema 'n kragtens bedoelde Versekeringswet geregistreerde versekeraar was en asof die lede van die skema die eienaars van deur die party uitgereikte versekeringspolisse was.

(4) Indien een of ander party by die voorgestelde transaksie nie 'n geregistreerde skema is nie en nie versekeringsbesigheid binne die bedoeling van bedoelde Versekeringswet in die Republiek dryf nie, kan die registrateur daardie party gelas om enige inligting waaroor daardie party beskik en wat die registrateur vermeld, aan hom te verstrek.

(5) Die registrateur kan na goeddunke eis dat enige van of al die volgende bepalings nagekom word, naamlik—

(*a*) dat 'n verslag omtrent die voorgestelde transaksie op koste van die partye deur 'n onafhanklike waardeerder of ander bevoegde persoon benoem deur die registrateur opgestel en aan die registrateur verstrek word wat 'n afskrif daarvan aan elkeen van die partye by die voorgestelde transaksie moet stuur;

(*b*) dat elkeen van bedoelde partye 'n afskrif van die uiteensetting van die voorgestelde transaksie en van die in paragraaf (*a*) bedoelde verslag (as daar een is) aan elke lid, aandeelhouer en skuldeiser van daardie party, of slegs aan die lede, aandeelhouers en skuldeisers wat die registrateur aanwys, moet stuur;

(*c*) dat die partye by die voorgestelde transaksie besonderhede daarvan in 'n deur die registrateur goedgekeurde vorm in die *Staatskoerant* en in 'n nuusblad of nuusblaaie wat die registrateur aanwys, bekend maak.

(6) Afskrifte van die uiteensetting van die voorgestelde transaksie en van die in paragraaf (*a*) van subartikel (5) bedoelde verslag (as daar een is), moet beskikbaar gestel word vir insae deur lede, aandeelhouers of skuldeisers van enige party by die voorgestelde transaksie of deur enige ander persoon of liggaam wat belang het daarby vir so 'n tydperk van minstens een-en-twintig dae as wat die registrateur mag vasstel—

(*a*) by die geregistreerde kantoor van enige geregistreerde skema wat betrokke is; en

(*b*) by die geregistreerde kantoor of ander hoofbesigheidsplek in die Republiek van enige ander party.

(7) Wanneer die vereistes van subartikel (6) nagekom is, moet die registrateur die uiteensetting van die voorgestelde transaksie oorweeg, en daarna kan hy—

(*a*) dit bekragtig; of

(*b*) voorstel dat die partye by die voorgestelde transaksie die uiteensetting in sekere opsigte wysig, en indien hulle die uiteensetting aldus wysig, kan hy die aldus gewysigde uiteensetting bekragtig; of

(*c*) weier om dit te bekragtig.

(8) Indien die registrateur geweier het om die uiteensetting te bekragtig, kan die partye by die voorgestelde transaksie na minstens veertien dae kennisgewing aan die registrateur by die raad om bekragtiging van die uiteensetting aansoek doen.

(9) Die registrateur is geregtig om by so 'n aansoek persoonlik of deur middel van 'n verteen-

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

application, and the council may confirm the exposition as submitted to it or with such modifications as the council may deem fit or decline to confirm the exposition.

(10) An exposition confirmed by the registrar or the council in accordance with this section shall be binding on all persons concerned, and shall have effect notwithstanding any conflicting provision contained in the rules of any registered scheme concerned or in the memorandum or other document under which any other party to the transaction is constituted, or in the articles of association or other rules of such party.

(11) When the exposition of the proposed transaction has been confirmed by the registrar or the council, the person controlling the amalgamated business or the person to whom any business has been transferred in terms of the transaction, as the case may be, shall within fourteen days after such confirmation deposit with the registrar—

(*a*) a declaration, duly signed in accordance with the provisions of section 25B, on behalf of each of the parties to the transaction, that to the best of their belief every payment made or to be made or other valuable consideration given or to be given to any person whatsoever on account of the amalgamation or transfer is fully set forth in the exposition of the proposed transaction; and

(*b*) if the exposition has been confirmed by the council, a certified copy thereof as confirmed and the order of council confirming it.

(12) Whenever the exposition of a proposed transaction is confirmed in accordance with the provisions of this section, the relevant assets and liabilities of the parties to the amalgamation shall vest in and become binding upon the amalgamated body or, as the case may be, the relevant assets and liabilities of the party effecting the transfer shall vest in and become binding upon the party to which transfer is effected.

(13) The officer in charge of a deeds registry in which is registered any deed or other document relating to any asset which is transferred in accordance with the provisions of subsection (12), shall, upon production to him by the person concerned of such deed or other document and of a certificate by the registrar of the confirmation of the transaction of amalgamation or of transfer, as the case may be, without payment of transfer duty, stamp duty, registration fees or charges, make the endorsements upon such deed or document and the alterations in his registers necessitated by the amalgamation or transfer.

(14) A transaction in terms of this section shall not deprive any creditor of a party thereto (other than in his capacity as a member or a shareholder of such party) of any right or remedy which he had immediately prior to the date of the transaction against any party to the transaction or against any member or shareholder or officer of such party.".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

woordiger aangehoor te word, en die raad kan die uiteensetting bekragtig soos aan hom voorgelê of met die wysigings wat die raad goedvind, of bekragtiging van die uiteensetting weier.

(10) 'n Uiteensetting wat deur die registrateur of die raad ooreenkomstig hierdie artikel bekragtig is, bind alle persone betrokke, en geld ondanks andersluidende bepalings vervat in die reëls van enige geregistreerde skema betrokke of in die akte van oprigting of ander dokument waarkragtens enige ander party by die transaksie opgerig is of in die reëls of ander reglemente van so 'n party.

(11) Wanneer die uiteensetting van die voorgestelde transaksie deur die registrateur of die raad bekragtig is, moet die persoon wat die saamgesmelte saak beheer of die persoon aan wie 'n saak ooreenkomstig die transaksie oorgedra is, na gelang van die geval, binne veertien dae na sodanige bekragtiging by die registrateur—

(*a*) 'n verklaring indien, wat behoorlik ooreenkomstig die bepalings van artikel 25B namens elkeen van die partye by die transaksie onderteken is, dat na hulle beste wete elke betaling wat in verband met die samesmelting of oordrag gemaak is of moet word of ander teenprestasie wat in verband daarmee gegee is of moet word aan enige persoon hoegenaamd, volledig in die uiteensetting van die voorgestelde transaksie uiteengesit is; en

(*b*) indien die uiteensetting deur die raad bekragtig is, 'n gesertifiseerde afskrif daarvan, soos bekragtig, indien asook die bevel van die raad wat dit bekragtig.

(12) Wanneer die uiteensetting van 'n voorgestelde transaksie ooreenkomstig die bepalings van hierdie artikel bekragtig word, berus die betrokke bates van die partye by die samesmelting by, en gaan hul betrokke laste oor op, die saamgesmelte liggaam of, na gelang van die geval, berus die betrokke bates van die party wat die oordrag doen by, en gaan sy betrokke laste oor op, die party aan wie die oordrag geskied.

(13) Die amptenaar belas met die beheer oor 'n registrasiekantoor van aktes waarin 'n akte of ander dokument betreffende 'n bate wat ooreenkomstig die bepalings van subartikel (12) oorgedra word, geregistreer is, moet by vertoning aan hom deur die betrokke persoon van bedoelde akte of ander dokument en van 'n sertifikaat deur die registrateur dat die transaksie insake samesmelting of oordrag, na gelang van die geval, bekragtig is, sonder betaling van hereregt, seëlreg, registrasiegelde of koste, die aantekenings op daardie akte of dokument en die veranderings in sy registers maak wat as gevolg van die samesmelting of oordrag nodig is.

(14) 'n Transaksie ooreenkomstig hierdie artikel ontneem nie 'n skuldeiser van 'n party daarby (behalwe in sy hoedanigheid as 'n lid of 'n aandeelhouer van so 'n party) enige aanspraak of regsmiddel wat hy onmiddellik voor die datum van die transaksie teen een of ander party by die transaksie of teen 'n lid of aandeelhouer of beampte van so 'n party gehad het nie.".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Amendment of section 21 of Act 72 of 1967.

16. Section 21 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The registrar may request a registered scheme to—

(*a*) within a period of thirty days as from the date on which the registrar addressed the request to the scheme, amend in the manner indicated by the registrar; or

(*b*) apply in the manner indicated by the registrar,

any rule of such scheme which is, in the opinion of the registrar, being applied in a manner inconsistent with the provisions of this Act.".

Substitution of section 23 of Act 72 of 1967.

17. The following section is hereby substituted for section 23 of the principal Act:

"Principal officer.

23. (1) Every registered medical scheme shall have a principal executive officer.

(2) The officer referred to in subsection (1) shall be resident in the Republic, and if he is, for a period exceeding thirty days, absent from the Republic or for any reason unable to discharge any duty imposed upon him by any provision of this Act, the scheme shall forthwith, in the manner directed by its rules, appoint another officer to act, for the duration of such first-mentioned officer's absence or inability, in the stead of such first-mentioned officer.

(3) Within thirty days of the registration of a medical scheme under this Act, the person managing the business of the scheme shall notify the registrar of the name and address of the principal officer of the scheme and the registrar shall be similarly notified of every subsequent change of address of that officer.

(4) Whenever a registered medical scheme has appointed a new principal officer, the person managing the business of the scheme shall within thirty days as from such appointment give notice thereof in writing to the registrar.

(5) Any notice required or permitted to be given to a registered medical scheme in terms of this Act shall, if given to the principal officer, be deemed to have been duly given to the scheme.".

Insertion of section 23A in Act 72 of 1967.

18. The following section is hereby inserted in the principal Act after section 23:

"Establishment and constitution of Representative Association of Medical Schemes.

23A. (1) There is hereby established an association to be known as the Representative Association of Medical Schemes which shall represent all registered medical schemes in the Republic and shall perform the functions assigned to it by this Act.

(2) The Representative Association of Medical Schemes shall consist of members nominated, subject to the provisions of subsection (4), by associations representing medical schemes and which—

(*a*) in the case of such associations which existed immediately prior to the commencement of the Medical Schemes Amendment Act, 1975, each represents not less than fifteen medical schemes having, in the aggregate, not less than one hundred thousand members;

(*b*) in the case of such associations established after the commencement of the Medical Schemes Amendment Act, 1975, each represents not less

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Wysiging van artikel 21 van Wet 72 van 1967.

16. Artikel 21 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

„(3) Die registrateur kan 'n geregistreerde skema versoek om 'n reël van daardie skema wat, na die oordeel van die registrateur, toegepas word op 'n wyse wat strydig is met die bepalings van hierdie Wet—

(*a*) binne 'n tydperk van dertig dae vanaf die datum waarop die registrateur die versoek aan die skema gerig het, te wysig op die wyse wat die registrateur aandui; of

(*b*) toe te pas op die wyse wat die registrateur aandui.".

Vervanging van artikel 23 van Wet 72 van 1967.

17. Artikel 23 van die Hoofwet word hierby deur die volgende artikel vervang:

„Hoofbeampte.

23. (1) Elke geregistreerde mediese skema moet 'n uitvoerende hoofbeampte hê.

(2) Die in subartikel (1) bedoelde beampte moet in die Republiek woonagtig wees, en indien hy vir 'n tydperk wat dertig dae te bowe gaan uit die Republiek afwesig is of om die een of ander rede nie in staat is om 'n plig wat hom deur 'n bepaling van hierdie Wet opgelê word, uit te voer nie, moet die skema onverwyld, op die wyse deur sy statute bepaal, 'n ander beampte aanstel om, vir die duur van die eersgenoemde beampte se afwesigheid of onvermoë, in die plek van die eersgenoemde beampte waar te neem.

(3) Binne dertig dae na die registrasie van 'n mediese skema kragtens hierdie Wet, moet die persoon wat die sake van die skema bestuur die registrateur van die naam en adres van die hoofbeampte van die skema in kennis stel en die registrateur moet op dieselfde wyse van elke daaropvolgende adresverandering van daardie beampte in kennis gestel word.

(4) Wanneer 'n geregistreerde mediese skema 'n nuwe hoofbeampte aangestel het, moet die persoon wat die sake van die skema bestuur binne dertig dae vanaf so 'n aanstelling die registrateur skriftelik daarvan in kennis stel.

(5) Kennis wat ingevolge hierdie Wet aan 'n geregistreerde mediese skema gegee moet word of kan word, word, indien dit gegee is aan die hoofbeampte, geag behoorlik aan die skema gegee te gewees het.".

Invoeging van artikel 23A in Wet 72 van 1967.

18. Die volgende artikel word hierby in die Hoofwet na artikel 23 ingevoeg:

„Instelling en samestelling van Verteenwoordigende Vereniging van Mediese Skemas.

23A. (1) Hierby word 'n vereniging ingestel wat die Verteenwoordigende Vereniging van Mediese Skemas heet wat alle geregistreerde mediese skemas in die Republiek verteenwoordig en die werksaamhede verrig wat by hierdie Wet daaraan toegewys word.

(2) Die Verteenwoordigende Vereniging van Mediese Skemas bestaan uit lede benoem, behoudens die bepalings van subartikel (4), deur verenigings wat mediese skemas verteenwoordig en wat—

(*a*) in die geval van sodanige verenigings wat onmiddellik voor die inwerkingtreding van die Wysigingswet op Mediese Skemas, 1975, bestaan het, elk ten minste vyftien mediese skemas verteenwoordig wat gesamentlik nie minder nie as honderdduisend lede het;

(*b*) in die geval van sodanige verenigings wat na die inwerkingtreding van die Wysigingswet op Mediese Skemas, 1975, gestig word, elk ten minste

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

than twenty-five medical schemes having, in the aggregate, not less than two hundred and fifty thousand members.

(3) If any association contemplated in subsection (2) which has by virtue of the provisions of that subsection nominated members of the Representative Association of Medical Schemes ceases to comply with any of the requirements of that subsection which are applicable to it, the registrar shall declare such association disqualified as from the date on which it came to his notice that such association had so ceased to comply and every member of the Representative Association of Medical Schemes nominated by the association concerned shall vacate his office as from that date.

(4) Every association contemplated in subsection (2) which complies with the requirements of that subsection which are applicable to it may nominate—

(*a*) two members of the Representative Association of Medical Schemes in respect of the first two hundred thousand members (a number less than two hundred thousand being reckoned as two hundred thousand), of all the medical schemes represented by such association; and

(*b*) one member of the Representative Association of Medical Schemes in respect of every two hundred thousand members (a number less than two hundred thousand being reckoned as two hundred thousand), of all the medical schemes represented by such association, in excess of the first two hundred thousand members referred to in paragraph (*a*).

(5) (*a*) The first meeting of the Representative Association of Medical Schemes shall take place on a date and at a place determined by the Secretary for Health by notice in the *Gazette*.

(*b*) A quorum for any meeting of the Representative Association of Medical Schemes shall be a majority of its members.

(*c*) A decision of a majority of the members present at any meeting of the Representative Association of Medical Schemes shall be a decision of that Association.

(*d*) The members present at the first meeting of the Representative Association of Medical Schemes shall elect from among themselves a chairman to preside at that meeting and to convene and preside at subsequent meetings of that Association until such time as rules have been made in terms of paragraph (*e*).

(*e*) The Representative Association of Medical Schemes shall make rules, not inconsistent with the provisions of this Act, providing for the appointment or election of officials of that Association and their terms of office and for the conduct of the business and the procedure at meetings of that Association and may from time to time amend or rescind such rules or make new rules.

(6) Every medical scheme shall be a member of such an association representing medical schemes as is contemplated in subsection (2).".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

vyf-en-twintig mediese skemas verteenwoordig wat gesamentlik nie minder nie as tweehonderd-en-vyftigduisend lede het.

(3) Indien 'n in subartikel (2) beoogde vereniging wat uit hoofde van die bepalings van daardie subartikel lede van die Verteenwoordigende Vereniging van Mediese Skemas benoem het, ophou om aan enige van die vereistes van daardie subartikel wat op hom van toepassing is, te voldoen, verklaar die registrateur so 'n vereniging onbevoeg met ingang van die datum waarop dit tot sy kennis gekom het dat so 'n vereniging aldus opgehou het om te voldoen en iedere lid van die Verteenwoordigende Vereniging van Mediese Skemas benoem deur die betrokke vereniging ontruim sy amp met ingang van daardie datum.

(4) Iedere in subartikel (2) beoogde vereniging wat aan die vereistes van daardie subartikel wat op hom van toepassing is, voldoen, kan—

(*a*) twee lede van die Verteenwoordigende Vereniging van Mediese Skemas ten opsigte van die eerste tweehonderdduisend lede (terwyl 'n getal minder as tweehonderdduisend as tweehonderdduisend gereken word) van al die mediese skemas wat deur so 'n vereniging verteenwoordig word; en

(*b*) een lid van die Verteenwoordigende Vereniging van Mediese Skemas ten opsigte van elke tweehonderdduisend lede (terwyl 'n getal minder as tweehonderdduisend as tweehonderdduisend gereken word) van al die mediese skemas wat deur so 'n vereniging verteenwoordig word, wat die eerste tweehonderdduisend lede bedoel in paragraaf (*a*) te bowe gaan,

benoem.

(5) (*a*) Die eerste vergadering van die Verteenwoordigende Vereniging van Mediese Skemas vind plaas op 'n datum en plek wat die Sekretaris van Gesondheid by kennisgewing in die *Staatskoerant* bepaal.

(*b*) 'n Meerderheid van sy lede maak 'n kworum vir 'n vergadering van die Verteenwoordigende Vereniging van Mediese Skemas uit.

(*c*) 'n Besluit van 'n meerderheid van die lede aanwesig op 'n vergadering van die Verteenwoordigende Vereniging van Mediese Skemas maak 'n besluit van daardie Vereniging uit.

(*d*) Die lede aanwesig op die eerste vergadering van die Verteenwoordigende Vereniging van Mediese Skemas kies uit hul geledere 'n voorsitter om op daardie vergadering voor te sit en om, tot tyd en wyl reëls ingevolge paragraaf (*e*) uitgevaardig is, daaropvolgende vergaderings van daardie Vereniging te belê en daarop voor te sit.

(*e*) Die Verteenwoordigende Vereniging van Mediese Skemas vaardig reëls uit wat nie met die bepalings van hierdie Wet onbestaanbaar is nie en wat voorsiening maak vir die aanstelling of verkiesing van ampsdraers van daardie Vereniging en hul ampstermyne en vir die verrigting van die werksaamhede en die prosedure op vergaderings van daardie Vereniging en kan van tyd tot tyd daardie reëls wysig of intrek of nuwe reëls uitvaardig.

(6) Iedere mediese skema moet 'n lid wees van 'n in subartikel (2) beoogde vereniging wat mediese skemas verteenwoordig.".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Amendment of section 25 of Act 72 of 1967.

19. Section 25 of the principal Act is hereby amended by the addition of the following subsections, the existing section becoming subsection (1):

"(2) In addition to the powers and duties conferred or imposed upon him by this Act, the registrar or an officer nominated by him for that purpose shall have all the powers and duties conferred or imposed upon him by the Inspection of Financial Institutions Act, 1962 (Act No. 68 of 1962).

(3) Any reference in this Act to an inspection or investigation made under this section shall be construed as a reference to an inspection made under the Inspection of Financial Institutions Act, 1962.".

Insertion of sections 25A, 25B, 25C, 25D, 25E, 25F and 25G in Act 72 of 1967.

20. The following sections are hereby inserted in the principal Act after section 25:

"Accounts.

25A. Every registered scheme shall, within six months as from the expiration of every financial year, furnish to the registrar—

(*a*) a revenue account showing the revenue and expenditure for that year including the expenses of management of the scheme and any contributions towards such expenses: Provided that, if the rules of the scheme require a separate account to be maintained for a particular kind of business or in respect of the said expenses and contributions, the aforesaid revenue account shall be divided into sections in such a way as to show separately the transactions of the scheme in respect of that particular kind of business, or, as the case may be, in respect of the said expenses and contributions;

(*b*) a balance sheet showing the financial position of the scheme at the close of that year; and

(*c*) such other returns as the registrar may require.

Requirements in regard to documents to be deposited with registrar.

25B. (1) A registered scheme shall be deemed not to have complied with any provision of this Act, which imposes upon such scheme the obligation to furnish to the registrar a document prepared by the scheme, unless such document is signed by the principal officer and one other person authorized in accordance with the rules of the scheme to sign documents.

(2) If any person (other than an auditor or valuator) who is not a natural person, is required by any provision of this Act to sign any document which is to be furnished to the registrar, such document shall be signed on behalf of such person as follows, that is to say—

(*a*) if such person is a committee of individuals, by the person for the time being at the head of the committee and by one other member thereof;

(*b*) if such person is an association of persons, by the person who is for the time being at the head of the board of directors or other committee controlling such association, and by one other member of such board or committee;

(*c*) in any other case by persons, designated by the registrar, who exercise any control over the business of the said person.

(3) A registered scheme shall be deemed not to have complied with the applicable provisions of

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Wysiging van artikel 25 van Wet 72 van 1967.

19. Artikel 25 van die Hoofwet word hierby gewysig deur die volgende subartikels by te voeg terwyl die bestaande artikel subartikel (1) word:

„(2) Benewens die bevoegdhede en pligte aan hom deur hierdie Wet verleen of opgelê, het die registrateur of 'n beampte vir die doel deur hom benoem al die bevoegdhede en pligte aan hom verleen of opgelê deur die Wet op Inspeksie van Finansiële Instellings, 1962 (Wet No. 68 van 1962).

(3) Enige verwysing in hierdie Wet na 'n inspeksie of ondersoek kragtens hierdie artikel gedoen, word uitgelê as 'n verwysing na 'n inspeksie gedoen kragtens die Wet op Inspeksie van Finansiële Instellings, 1962.".

Invoeging van artikels 25A, 25B, 25C, 25D, 25E, 25F en 25G in Wet 72 van 1967.

20. Die volgende artikels word hierby in die Hoofwet na artikel 25 ingevoeg:

„Rekenings.

25A. Elke geregistreerde skema moet, binne ses maande na afloop van elke boekjaar, by die registrateur indien—

(*a*) 'n inkomsterekening wat die inkomste en uitgawes vir daardie jaar aantoon, met inbegrip van die bestuurskoste van die skema en enige bydraes tot bedoelde koste: Met dien verstande dat indien volgens die reëls van die skema 'n afsonderlike rekening vir 'n besondere soort saak of ten opsigte van vermelde koste en bydraes gehou moet word, voormelde inkomsterekening in afdelings ingedeel moet word op so 'n wyse dat die transaksies van die skema ten opsigte van daardie besondere soort sake, of, na gelang van die geval, ten opsigte van vermelde koste en bydraes, afsonderlik aangetoon word;

(*b*) 'n balansstaat wat die finansiële posisie van die skema by verstryking van daardie jaar aantoon; en

(*c*) die ander opgawes wat die registrateur vereis.

Vereistes ten opsigte van stukke wat by die registrateur ingedien moet word.

25B. (1) 'n Geregistreerde skema word geag nie aan 'n bepaling van hierdie Wet wat aan so 'n skema die verpligting oplê om aan die registrateur 'n deur die skema opgestelde dokument te verstrek, te voldoen het nie, tensy so 'n dokument deur die hoofbeampte en een ander persoon ooreenkomstig die statute van die skema gemagtig om dokumente te teken, onderteken is.

(2) Indien 'n persoon (behalwe 'n ouditeur of 'n waardeerder) wat nie 'n natuurlike persoon is nie, deur 'n bepaling van hierdie Wet verplig word om 'n dokument wat aan die registrateur verstrek moet word, te onderteken, moet so 'n dokument soos volg namens daardie persoon onderteken word, te wete—

(*a*) indien bedoelde persoon 'n komitee van individue is, deur die persoon wat dan aan die hoof van die komitee is, en deur een ander lid daarvan;

(*b*) indien bedoelde persoon 'n vereniging van persone is, deur die individu wat dan aan die hoof is van die raad van direkteure of ander komitee wat bedoelde vereniging beheer, en deur een ander lid van bedoelde raad of komitee;

(*c*) in enige ander geval, deur individue deur die registrateur aangewys, wat enige beheer oor die sake van bedoelde persoon uitoefen.

(3) 'n Geregistreerde skema word geag nie aan die toepaslike bepalings van artikel 25A te voldoen het

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

section 25A unless any revenue account, balance sheet or return required to be submitted under one or other of those provisions is certified by the auditor of the scheme.

(4) Any person who is required in terms of any provision of this Act to furnish to the registrar—

(*a*) any original document, shall also furnish such additional copies thereof, not exceeding three in number, as may be prescribed by regulation or as the registrar may require;

(*b*) a copy of any document, shall furnish one copy thereof certified as correct—

(i) in the case of a registered scheme, by its principal officer; and

(ii) in any other case, by the person by whom such copy is required to be furnished,

together with so many additional copies, not exceeding three, as may be prescribed by regulation or as the registrar may require.

Registrar may reject returns.

25C. If the registrar is of the opinion that any revenue account, balance sheet or return furnished by a registered scheme in terms of section 25A does not comply with any of the provisions of this Act or does not correctly reflect the revenue and expenditure or financial position, as the case may be, of the scheme, he may reject the document in question, and in that event—

(*a*) he shall notify the scheme concerned of the reasons for such rejection; and

(*b*) the scheme shall be deemed not to have furnished the said document to the registrar.

Registrar may require additional particulars in case of certain applications and returns.

25D. (1) If the registrar is of opinion that—

(*a*) any application for registration of a medical scheme or of an alteration or rescission of rules or of an additional rule; or

(*b*) any return or exposition relating to the financial condition of a scheme,

does not disclose sufficient information to enable him to make the necessary decision, the person concerned shall furnish such additional particulars as the registrar may deem necessary.

(2) If the registrar is of the opinion that a certificate or special report by a valuator or by the auditor of a scheme is necessary in regard to any matter set out in subsection (1), the person concerned shall furnish such certificate or report as the registrar may require.

Inspection of documents.

25E. (1) Upon payment of the fees prescribed by regulation any person may inspect at the office of the registrar any document referred to in section 25G and make a copy thereof or take extracts therefrom or obtain from the registrar a copy thereof or extract therefrom.

(2) The registrar may exempt any person from the obligation to pay fees under this section, if he is satisfied that the inspection, copy or extract in question is desired for the purpose of furthering some public interest.

(3) The registrar shall without charge furnish any applicant therefor with particulars of the address of the registered office and the name of the principal officer of any registered scheme.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

nie, tensy enige inkomsterekening, balansstaat of opgawe wat ingevolge een of ander van daardie bepalings verstrek moet word, deur die ouditeur van die skema gewaarmerk is.

(4) Iemand wat ooreenkomstig 'n bepaling van hierdie Wet aan die registrateur—

(*a*) 'n oorspronklike dokument moet verstrek, moet ook die addisionele afskrifte daarvan, maar hoogstens drie, verstrek wat by regulasie voorgeskryf mag wees of wat die registrateur mag verlang;

(*b*) 'n afskrif van 'n dokument moet verstrek, moet een afskrif daarvan verstrek wat as korrek gesertifiseer is—

(i) in die geval van 'n geregistreerde skema, deur sy hoofbeampte; en

(ii) in enige ander geval, deur die persoon deur wie bedoelde afskrif verstrek moet word,

tesame met soveel addisionele afskrifte, maar hoogstens drie, as wat by regulasie voorgeskryf word of wat die registrateur verlang.

Die registrateur kan opgawes verwerp.

25C. Indien die registrateur van oordeel is dat 'n inkomsterekening, belansstaat of opgawe ingevolge artikel 25A deur 'n geregistreerde skema verstrek nie aan die bepalings van hierdie Wet voldoen nie, of nie 'n juiste weergawe van die inkomste en uitgawes of, na gelang van die geval, van die geldelike toestand van die skema is nie, kan hy die betrokke dokument verwerp, en in daardie geval—

(*a*) stel hy die betrokke skema in kennis van die redes vir so 'n verwerping; en

(*b*) word dit geag dat die skema nie die bedoelde dokument aan die registrateur verstrek het nie.

Registrateur kan aanvullende besonderhede in die geval van sekere aansoeke en opgawes verlang.

25D. (1) Indien die registrateur van oordeel is dat—

(*a*) 'n aansoek om registrasie van 'n mediese skema of van 'n wysiging of herroeping van reëls of van 'n addisionele reël; of

(*b*) 'n opgawe of uiteensetting aangaande die finansiële gesteldheid van 'n skema,

nie genoegsame inligting openbaar om hom in staat te stel om die nodige beslissing te gee nie, moet die betrokke persoon die verdere besonderhede verskaf wat die registrateur nodig ag.

(2) Indien die registrateur van oordeel is dat 'n sertifikaat of spesiale verslag deur 'n waardeerder of deur die ouditeur van 'n skema nodig is in verband met enige saak in subartikel (1) uiteengesit, moet die betrokke persoon die sertifikaat of verslag wat die registrateur verlang, verstrek.

Insae in dokumente.

25E. (1) Iedereen kan, teen betaling van die by regulasie voorgeskrewe gelde, enige in artikel 25G bedoelde dokument by die kantoor van die registrateur insien en 'n afskrif daarvan of uittreksels daaruit maak of 'n afskrif daarvan of uittreksel daaruit van die registrateur verkry.

(2) Die registrateur kan enigeen vrystel van die verpligting om gelde ingevolge hierdie artikel te betaal, indien hy oortuig is dat die betrokke insae, afskrif of uittreksel ter bevordering van een of ander openbare belang verlang word.

(3) Die registrateur verstrek sonder betaling aan iemand wat daarom aansoek doen besonderhede van die adres van die geregistreerde kantoor en die naam van die hoofbeampte van enige geregistreerde skema.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Effect of registrar's certificate on documents.

25F. Every document which purports to have been certified by the registrar to be a document deposited at his office under the provisions of this Act, or to be a copy of such a document, shall *prima facie* be deemed to be such a document, or a copy thereof, and every such copy shall be admissible in evidence as if it were the original document.

Right to obtain copies of or to inspect certain documents.

25G. (1) Every registered scheme shall deliver to any member on demand by such member, and on payment of such sum as may be determined by the rules of the scheme, a copy of any of the following documents—

(*a*) the rules of the scheme;

(*b*) the last revenue account prepared in terms of paragraph (*a*) of section 25A, together with the last balance sheet and returns prepared in terms of paragraphs (*b*) and (*c*) of that section.

(2) Any member shall be entitled to inspect without charge, at the registered office of a registered scheme, a copy of any of the documents referred to in subsection (1) and to make extracts therefrom.".

Amendment of section 28 of Act 72 of 1967.

21. Section 28 of the principal Act is hereby amended by the substitution for paragraph (*a*) of subsection (1) of the following paragraph:

"(*a*) by the scheme in question against any medical practitioner or dentist or the supplier of any medicine, requirement, appliance or accommodation in a hospital or nursing home, and such complaint is not required or permitted to be dealt with in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), or the Pharmacy Act, 1974 (Act No. 53 of 1974), or any other law regulating the conduct or affairs of medical practitioners or dentists or the supplier in question; or".

Substitution of section 29 of Act 72 of 1967, as substituted by section 11 of Act 95 of 1969.

22. The following section is hereby substituted for section 29 of the principal Act:

"Tariff of fees of persons registered under the Medical, Dental and Supplementary Health Service Professions Act, 1974.

29. (1) No person registered in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), shall in respect of the rendering by him of any particular service to a member or a dependant of a member of a registered medical scheme recover an amount exceeding the amount of the fees calculated in accordance with the relevant provisions of the tariff of fees (if any), unless—

(*a*) such service had been rendered prior to the date on which the scheme was registered;

(*b*) such person—

(i) had, not less than one month before the expiration of the quarter immediately preceding the quarter ending on the last day of March, June, September or December, as the case may be, in which such service was rendered, by notice in writing

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Uitwerking van sertifikaat van registrateur op dokumente.

25F. Elke dokument wat heet deur die registrateur gesertifiseer te wees as 'n dokument wat ingevolge die bepalings van hierdie Wet by sy kantoor ingedien is, of as 'n afskrif van so 'n dokument, word *prima facie* geag so 'n dokument of afskrif daarvan te wees, en elke sodanige afskrif is as bewysstuk toelaatbaar asof dit die oorspronklike dokument is.

Reg om afskrifte van sekere dokumente te verkry of dit in te sien.

25G. (1) Elke geregistreerde skema moet aan enige lid, op aanvraag deur so 'n lid en by betaling van die bedrag wat die reëls van die skema bepaal, 'n afskrif van enigeen van die volgende dokumente oorhandig—

(*a*) die reëls van die skema;

(*b*) die jongste inkomsterekening ooreenkomstig paragraaf (*a*) van artikel 25A opgestel, tesame met die jongste belansstaat en opgawes ooreenkomstig paragrawe (*b*) en (*c*) van daardie artikel opgestel.

(2) 'n Lid is geregtig om sonder betaling by die geregistreerde kantoor van 'n geregistreerde mediese skema, 'n afskrif van enigeen van die dokumente bedoel in subartikel (1) in te sien en uittreksels daaruit te maak.".

Wysiging van artikel 28 van Wet 72 van 1967.

21. Artikel 28 van die Hoofwet word hierby gewysig deur paragraaf (*a*) van subartikel (1) deur die volgende paragraaf te vervang:

„(*a*) deur die betrokke skema teen 'n geneesheer of tandarts of die verskaffer van enige medisyne, benodigdheid, apparaat of akkommodasie in 'n hospitaal of verpleeginrigting, en daar nie met bedoelde klagte ingevolge die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), of die Wet op Aptekers, 1974 (Wet No. 53 van 1974), of 'n ander wet wat die gedrag of sake van geneeshere of tandartse of die betrokke verskaffer reël, gehandel moet of kan word nie; of".

Vervanging van artikel 29 van Wet 72 van 1967, soos vervang deur artikel 11 van Wet 95 van 1969.

22. Artikel 29 van die Hoofwet word hierby deur die volgende artikel vervang:

„Geldetarief van persone geregistreer kragtens die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974.

29. (1) Geen persoon wat kragtens die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), geregistreer is, mag, ten opsigte van die lewering deur hom van 'n besondere diens aan 'n lid of 'n afhanklike van 'n lid van 'n geregistreerde mediese skema, 'n bedrag verhaal nie wat hoër is as die bedrag van die gelde volgens die toepaslike bepalings van die geldetarief (as daar een is) bereken, tensy—

(*a*) bedoelde diens gelewer is voor die datum waarop die skema geregistreer is;

(*b*) bedoelde persoon—

(i) minstens een maand voor die verstryking van die kwartaal wat die kwartaal wat eindig op die laaste dag van Maart, Junie, September of Desember, na gelang van die geval, waarin bedoelde diens gelewer is, onmiddellik voorafgaan, by

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

informed the registrar that he was not prepared to render services to members or dependants of members of any medical scheme only at the tariffs specified in the tariff of fees; and

(ii) had, if it was reasonably possible to do so, informed such member or such dependant before the rendering of such service, that he was not bound to render any services at the tariffs specified in the said tariff of fees; or

(*c*) such person is a person who is not a party to an agreement referred to in the definition of 'medical benefit scheme' in section 1 and the service is rendered to a member, or the dependant of such a member, of a medical benefit scheme which, in consequence of having entered into such an agreement as is referred to in the said definition, had made an endorsement on the membership card of the member concerned to the effect that such medical benefit scheme does not guarantee the payment of fees according to the tariff of fees to any person who is not a party to the said agreement: Provided that such a person may not avail himself of the provisions of this paragraph in the case where the member or dependant concerned had been referred to, or authorized in writing to avail himself of the services of, such person by the medical benefit scheme concerned.

(2) A notice under subsection (1) (*b*) (i) shall be effective until the last day of the month of March, June, September or December, as the case may be, which immediately follows on the expiry of two months calculated from the date on which the person concerned, has, by notice in writing to the registrar, withdrawn it.

(3) Notwithstanding anything to the contrary contained in any agreement of partnership between two or more persons referred to in subsection (1) as to the pursuit of their profession, any notice under subsection (1) (*b*) (i) or (2) shall be binding on all parties to such agreement.

(4) No medical scheme shall by means of a written notice to all its members make known the name of any person referred to in subsection (1) from whom a notice under subsection (1) (*b*) (i) or (2) has been received by the registrar.".

Substitution of section 30 of Act 72 of 1967, as substituted by section 12 of Act 95 of 1969 and amended by section 3 of Act 49 of 1972.

23. The following section is hereby substituted for section 30 of the principal Act:

"Appointment of Remuneration Commission.

30. (1) A commission, to be known as the Remuneration Commission—

(*a*) shall be appointed by the Minister if he is requested to do so by both the Representative Association of Medical Schemes and any of the associations referred to in subsection (2) (*b*), (*c*) or (*d*);

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

skriftelike kennisgewing die registrateur in kennis gestel het dat hy nie bereid is nie om dienste slegs teen die tariewe in die geldetarief uiteengesit aan lede of afhanklikes van lede van 'n mediese skema te lewer; en

(ii) indien dit redelikerwys moontlik was om dit te doen, voor die lewering van bedoelde diens, sodanige lid of sodanige afhanklike in kennis gestel het dat hy nie verplig is nie om dienste te lewer teen die tariewe in genoemde geldetarief uiteengesit; of

(*c*) so 'n persoon iemand is wat nie 'n party is nie by 'n ooreenkoms bedoel in die omskrywing van ,mediese bystandskema' in artikel 1 en die diens gelewer word aan 'n lid, of die afhanklike van so 'n lid, van 'n mediese bystandskema wat, as gevolg daarvan dat daardie skema 'n ooreenkoms soos bedoel in die genoemde omskrywing aangegaan het, op die lidmaatskapskaart van die betrokke lid 'n endossement aangebring het te dien effekte dat daardie mediese bystandskema nie die betaling van gelde ooreenkomstig die geldetarief aan enige persoon wat nie 'n party by die bedoelde ooreenkoms is nie, waarborg nie: Met dien verstande dat so 'n persoon hom nie op die bepalings van hierdie paragraaf kan beroep nie in die geval waar die betrokke lid of afhanklike deur die betrokke mediese bystandskema na daardie persoon verwys is of skriftelik gemagtig is om van sy dienste gebruik te maak.

(2) 'n Kennisgewing ingevolge subartikel (1) (*b*) (i) is van krag tot die laaste dag van die maand Maart, Junie, September of Desember, na gelang van die geval, wat onmiddellik volg op die verstryking van twee maande, bereken vanaf die datum waarop die betrokke persoon dit by skriftelike kennisgewing aan die registrateur ingetrek het.

(3) Ondanks andersluidende bepalings van 'n vennootskapsooreenkoms tussen twee of meer in subartikel (1) bedoelde persone met betrekking tot die uitoefening van hul beroep, is 'n kennisgewing kragtens subartikel (1) (*b*) (i) of (2) bindend vir al die partye by die ooreenkoms.

(4) Geen mediese skema mag deur middel van 'n skriftelike kennisgewing aan al sy lede die naam bekend maak nie van 'n in subartikel (1) bedoelde persoon van wie 'n kennisgewing ingevolge subartikel (1) (*b*) (i) of (2) deur die registrateur ontvang is.".

23. Artikel 30 van die Hoofwet word hierby deur die volgende artikel vervang: **Vervanging van artikel 30 van Wet 72 van 1967, soos vervang deur artikel 12 van Wet 95 van 1969 en gewysig deur artikel 3 van Wet 49 van 1972.**

„Aanstelling van Vergoedingskommissie. **30.** (1) 'n Kommissie, wat die Vergoedingskommissie heet—

(*a*) word deur die Minister aangestel indien hy deur beide die Verteenwoordigende Vereniging van Mediese Skemas en enige van die verenigings bedoel in subartikel (2) (*b*), (*c*) of (*d*) versoek word om dit te doen;

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(*b*) may be appointed by the Minister after consideration of any recommendation pertaining to the appointment of such a commission which shall be made to him by the council after receipt by the council of a request for the appointment of such a commission from the said Representative Association of Medical Schemes or any of the associations referred to in subsection (2) (*b*), (*c*) or (*d*),

as often as he is so requested or a recommendation is so made to him, within three months after receipt by him of such a request or recommendation, to enquire into the question whether the tariff of fees should be amended or, where, in the case of a profession or suppliers referred to in subsection (2) (*d*), no tariff of fees is as yet in existence, to determine a tariff of fees: Provided that if a period of two years has elapsed since the last appointment of a commission in terms of this subsection, the Minister shall, if so requested by any of the associations referred to in subsection (2) (*b*), (*c*) or (*d*) or by the Representative Association of Medical Schemes, appoint such a commission within three months after the receipt of such a request.

(2) Subject to the provisions of subsection (6), the commission shall consist of—

(*a*) a judge, or an advocate of at least five years' standing, of the Supreme Court, who shall be the chairman thereof and shall be appointed by the Minister in consultation with the Minister of Justice;

(*b*) a medical practitioner appointed by the Minister from among at least three and not more than five persons whose names have been submitted for that purpose by the Medical Association of South Africa;

(*c*) a dentist appointed by the Minister from among at least three and not more than five persons whose names have been submitted for that purpose by the Dental Association of South Africa;

(*d*) a person appointed by the Minister from among at least three and not more than five persons whose names have been submitted for that purpose by an association of persons which in the opinion of the Minister is representative of the profession, other than a profession contemplated in paragraph (*b*) or (*c*), of which the, or suppliers whose, tariff of fees is to form the subject-matter of the commission's proceedings;

(*e*) a person appointed by the Minister from among at least three and not more than five persons whose names have been submitted for that purpose by the Representative Association of Medical Schemes; and

(*f*) a person registered under the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), appointed by the Minister.

(3) The Minister may for the purposes of subsection (2) (*d*), where a tariff of fees is to be determined for the first time, specify by notice in the

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(*b*) kan deur die Minister aangestel word na oorweging van 'n aanbeveling betreffende die aanstelling van so 'n kommissie wat deur die raad by hom gedoen moet word na ontvangs deur die raad van 'n versoek om die aanstelling van so 'n kommissie gerig deur bedoelde Verteenwoordigende Vereniging van Mediese Skemas of enige van die verenigings bedoel in subartikel (2) (*b*), (*c*) of (*d*),

so dikwels as wat hy aldus versoek word of 'n aanbeveling aldus by hom gedoen word, en binne drie maande na ontvangs deur hom van so 'n versoek of aanbeveling, om ondersoek in te stel of die geldetarief gewysig moet word of, waar, in die geval van 'n beroep of verskaffers bedoel in subartikel (2) (*d*), daar tot nog toe geen geldetarief bestaan nie, om 'n geldetarief te bepaal: Met dien verstande dat indien 'n tydperk van twee jaar verstryk het sedert die laaste aanstelling van 'n kommissie ingevolge hierdie subartikel, die Minister, indien hy daarom versoek word deur enige van die verenigings bedoel in subartikel (2) (b), (c) of (d) of deur die Verteenwoordigende Vereniging van Mediese Skemas, so 'n kommissie binne drie maande na die ontvangs van so 'n versoek moet aanstel.

(2) Die kommissie bestaan, behoudens die bepalings van subartikel (6), uit—

(*a*) 'n regter, of 'n advokaat met minstens vyf jaar beroepsondervinding, van die Hooggeregshof, wat die voorsitter daarvan is en deur die Minister in oorleg met die Minister van Justisie aangestel word;

(*b*) 'n geneesheer wat deur die Minister aangestel word uit minstens drie en hoogstens vyf persone, wie se name vir dié doel deur die Mediese Vereniging van Suid-Afrika voorgelê is;

(*c*) 'n tandarts wat deur die Minister aangestel word uit minstens drie en hoogstens vyf persone wie se name vir dié doel deur die Tandheelkundige Vereniging van Suid-Afrika voorgelê is;

(*d*) 'n persoon wat deur die Minister aangestel word uit minstens drie en hoogstens vyf persone wie se name vir dié doel deur 'n vereniging van persone, wat na die oordeel van die Minister verteenwoordigend is van die beroep, uitgesonderd 'n beroep beoog in paragraaf (*b*) of (*c*), waarvan die, of verskaffers wie se, geldetarief die onderwerp van die kommissie se verrigtinge sal uitmaak;

(*e*) iemand wat deur die Minister aangestel word uit minstens drie en hoogstens vyf persone wie se name vir dié doel deur die Verteenwoordigende Vereniging van Mediese Skemas voorgelê is; en

(*f*) 'n persoon geregistreer kragtens die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), wat deur die Minister aangestel word.

(3) Die Minister kan by die toepassing van subartikel (2) (*d*), waar 'n geldetarief vir die eerste maal bepaal moet word, die beroep of verskaffers

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Gazette the profession or suppliers in respect of which a tariff of fees is to be determined by the commission and the association which in his opinion is representative of such profession or suppliers.

(4) If after the expiration of a period of three weeks from the date on which the registrar requested an association referred to in paragraph (*b*), (*c*), (*d*) or (*e*) of subsection (2) in writing to submit a list of names as contemplated in those paragraphs, such association has not yet submitted the said list to the registrar, the Minister shall appoint any suitable person as a member of the commission in the place of the person he would have appointed if the said association had not so failed to submit the said list.

(5) The chairman of the commission shall have a deliberative as well as a casting vote.

(6) Any member of the commission appointed in terms of paragraph (*b*), (*c*) or (*d*) of subsection (2) shall not take part in the proceedings of the commission in so far as they relate to any tariff of fees in which such member has no interest by virtue of his profession.

(7) The commission shall enquire into the question whether the tariff of fees should be amended, or, in the case where no tariff of fees is as yet in existence, determine such tariff of fees, and when such enquiry is held or tariff of fees is to be determined—

(*a*) an association referred to in subsection (2) (*b*), (*c*) or (*d*) shall submit to the commission a schedule of relative unit values in respect of the profession or suppliers concerned, which relative unit values the commission shall convert into monetary values;

(*b*) an association referred to in subsection (2) (*b*), (*c*) or (*d*) or (*e*), the Department of Health or, with the approval of the commission, any medical scheme, may make representations to the commission.

(8) The meetings of the commission shall be held *in camera*, and the provisions of the Commissions Act, 1947 (Act No. 8 of 1947), in so far as it is not inconsistent with the provisions of this Act, shall apply to the Remuneration Commission and its proceedings.

(9) The Commission shall within three months after its appointment submit to the Minister a report proposing, as the case may be—

(*a*) either that the tariff of fees should remain unchanged or that it should be amended as indicated by it; or

(*b*) in the case where no tariff of fees is as yet in existence in respect of a profession or suppliers referred to in subsection (2) (*d*), such tariff of fees.

(10) If the commission proposes in its report that the tariff of fees should be amended, or proposes a tariff of fees in respect of a profession or suppliers referred to in subsection (2) (*d*), the Minister shall, as soon as possible after the receipt

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

ten opsigte waarvan 'n geldetarief deur die kommissie bepaal moet word en die vereniging wat na sy oordeel verteenwoordigend van sodanige beroep of verskaffers is, by kennisgewing in die *Staatskoerant* aandui.

(4) Indien na die verstryking van 'n tydperk van drie weke vanaf die datum waarop die registrateur 'n in paragraaf (*b*), (*c*), (*d*) of (*e*) van subartikel (2) bedoelde vereniging skriftelik versoek het om 'n lys van name soos beoog in daardie paragrawe, voor te lê, so 'n vereniging nog nie genoemde lys aan die registrateur voorgelê het nie, moet die Minister 'n geskikte persoon as lid van die kommissie aanstel in die plek van die persoon wat hy sou aangestel het indien bedoelde vereniging nie aldus in gebreke gebly het om genoemde lys voor te lê nie.

(5) Die Voorsitter van die kommissie het 'n gewone sowel as 'n beslissende stem.

(6) 'n Lid van die kommissie wat ingevolge paragraaf (*b*), (*c*) of (*d*) van subartikel (2) aangestel is, neem nie deel aan die verrigtinge van die kommissie vir sover hulle op 'n geldetarief betrekking het nie waarby so 'n lid geen belang uit hoofde van sy beroep het nie.

(7) Die kommissie moet ondersoek instel of die geldetarief gewysig moet word, of, in die geval waar geen geldetarief tot nog toe bestaan nie, so 'n geldetarief bepaal, en wanneer sodanige ondersoek ingestel word of geldetarief bepaal moet word—

(*a*) moet 'n vereniging bedoel in subartikel (2) (*b*), (*c*) of (*d*) 'n relatiewe eenheidswaardestaat ten opsigte van die betrokke beroep of verskaffers aan die kommissie voorlê welke relatiewe eenheidswaardes die kommissie tot geldwaardes moet herlei;

(*b*) kan 'n vereniging bedoel in subartikel (2) (*b*), (*c*), (*d*) of (*e*), die Departement van Gesondheid of, met die goedkeuring van die kommissie, enige mediese skema, vertoë tot die kommissie rig.

(8) Die kommissie se vergaderings word agter geslote deure gehou en die bepalings van die Kommissiewet, 1947 (Wet No. 8 van 1947), vir sover dit nie met die bepalings van hierdie Wet onbestaanbaar is nie, is op die Vergoedingskommissie en sy verrigtinge van toepassing.

(9) Die kommissie moet binne drie maande nadat hy aangestel is, aan die Minister 'n verslag voorlê waarin hy, na gelang van die geval—

(*a*) voorstel dat die geldetarief òf onveranderd bly òf gewysig word soos deur die kommissie aangedui; of

(*b*) in die geval waar geen geldetarief tot nog toe ten opsigte van 'n beroep of verskaffers bedoel in subartikel (2) (*d*) bestaan nie, so 'n geldetarief voorstel.

(10) Indien die kommissie in sy verslag voorstel dat die geldetarief gewysig word, of 'n geldetarief ten opsigte van 'n beroep of verskaffers bedoel in subartikel (2) (*d*) voorstel, moet die Minister so gou doenlik na ontvangs van die verslag die gelde-

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

by him of such report, amend the tariff of fees or as the case may be, put the tariff of fees into operation by notice in the *Gazette* as proposed by the commission in such report, and such amendment or tariff of fees shall come into operation on such date as the Minister may determine in the notice, which shall be a date not later than three months after receipt by the Minister of the said report.

(11) The members of the commission, other than the chairman thereof who is a judge of the Supreme Court and such members who are in the full-time service of the State, shall be paid such remuneration and allowances on such conditions as the Minister in consultation with the Minister of Finance may determine.

(12) In respect of—

(*a*) the application of any tariff, specified in the tariff of fees, to any particular case; or

(*b*) the determination of a tariff in respect of a particular service, where no such tariff has been determined as yet,

the decision of the council, given after consideration of a recommendation (if any) made by the committee referred to in section 10 (2), shall be final.

(13) (*a*) The provisions of subsection (7) (*a*) shall *mutatis mutandis* apply at any proceedings conducted by the council for the purpose of a decision under subsection (12) relating to a matter referred to in paragraph (*b*) of that subsection.

(*b*) Any decision of the council under subsection (12) shall be published in the *Gazette* by the registrar.".

Amendment of section 32 of Act 72 of 1967.

24. Section 32 of the principal Act is hereby amended—

(*a*) by the substitution for subsection (2) of the following subsection:

"(2) A person who is bound in terms of section 29 (1) to render services at the tariffs specified in the tariff of fees, may, if any amount due to him in respect of services rendered, other than services rendered while such person was not bound in terms of section 29 (1) as aforesaid, is still unpaid after the expiration of a period of one month as from the date on which the member concerned has been furnished with an account referred to in subsection (1), send by registered post a copy of such account to the registered medical scheme concerned."; and

(*b*) by the substitution for subsection (3) of the following subsection:

"(3) Within thirty days after having received such a copy the registered medical scheme concerned shall pay any amount referred to in subsection (2) directly to the person to whom such amount is due: Provided that, notwithstanding the provisions of the rules referred to in section 22, no registered medical scheme shall be obliged to pay any such amount, or portion thereof, unless a copy of an account referred to in subsection (1) is sent to such medical scheme by such person not later than the last day of the fourth month following the month during which the services in respect of which such amount is due, were rendered.".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

tarief by kennisgewing in die *Staatskoerant* wysig of in werking stel, na gelang van die geval, soos deur die kommissie in die verslag voorgestel, en so 'n wysiging of geldetarief tree in werking op die datum wat die Minister in die kennisgewing bepaal, wat 'n datum moet wees nie later nie as drie maande na ontvangs van bedoelde verslag deur die Minister.

(11) Aan die lede van die kommissie, uitgesonderd die voorsitter daarvan wat 'n regter van die Hooggeregshof is en sodanige lede wat in die heeltydse diens van die Staat is, word die vergoeding en toelaes betaal, op die voorwaardes, wat die Minister in oorleg met die Minister van Finansies bepaal.

(12) Ten opsigte van—

(*a*) die toepassing van 'n tarief, wat in die geldetarief uiteengesit word, op 'n bepaalde geval; of

(*b*) die bepaling van 'n tarief ten opsigte van 'n bepaalde diens, waar geen sodanige tarief tot nog toe bepaal was nie,

is die beslissing van die raad, gegee na oorweging van 'n aanbeveling (as daar is) gedoen deur die komitee bedoel in artikel 10 (2), afdoende.

(13) (*a*) Die bepalings van subartikel 7 (*a*) is *mutatis mutandis* van toepassing by enige verrigtinge wat die raad instel vir die doeleindes van 'n beslissing kragtens subartikel (12) met betrekking tot 'n aangeleentheid bedoel in paragraaf (*b*) van daardie subartikel.

(*b*) 'n Beslissing van die raad kragtens subartikel (12) word deur die registrateur in die *Staatskoerant* bekend gemaak.".

24. Artikel 32 van die Hoofwet word hierby gewysig—

Wysiging van artikel 32 van Wet 72 van 1967.

(*a*) deur subartikel (2) deur die volgende subartikel te vervang:

„(2) 'n Persoon wat ingevolge artikel 29 (1) verplig is om dienste te lewer teen die tariewe wat in die geldet·-ief uiteengesit is, kan, indien 'n bedrag wat aan hom verskuldig is ten opsigte van dienste gelewer, behalwe dienste gelewer terwyl bedoelde persoon nie ingevolge artikel 29 (1) gebonde was nie soos vermeld, nog nie betaal is nie na verloop van 'n tydperk van een maand vanaf die datum waarop 'n in subartikel (1) bedoelde rekening aan die betrokke lid verstrek is, 'n afskrif van bedoelde rekening per aangetekende pos, aan die betrokke geregistreerde mediese skema stuur."; en

(*b*) deur subartikel (3) deur die volgende subartikel te vervang:

„(3) Binne dertig dae na ontvangs van so 'n afskrif, betaal die betrokke geregistreerde mediese skema 'n in subartikel (2) bedoelde bedrag direk aan die persoon aan wie daardie bedrag verskuldig is: Met dien verstande dat, ondanks die bepalings van die in artikel 22 bedoelde reëls, geen mediese skema verplig is om bedoelde bedrag, of deel daarvan, te betaal nie, tensy 'n afskrif van 'n in subartikel (1) bedoelde rekening deur die bedoelde persoon aan die betrokke mediese skema gestuur word, nie later nie as die laaste dag van die vierde maand wat volg op die maand waarin die dienste gelewer is ten opsigte waarvan bedoelde bedrag verskuldig is.".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Repeal of section 36 of Act 72 of 1967.

25. Section 36 of the principal Act is hereby repealed.

Substitution of section 37 of Act 72 of 1967, as amended by section 14 of Act 95 of 1969.

26. The following section is hereby substituted for section 37 of the principal Act:

"Appeal against decision of registrar.

37. (1) Any person who is aggrieved by any decision of the registrar may within one month after the date on which such decision was given, appeal against such decision to the council and the council may make such order on the appeal as it may consider equitable, and its decision shall be final.

(2) The operation of any decision which is the subject of an appeal under subsection (1) shall be suspended pending the decision of the council on such appeal.

(3) Any person who lodges an appeal under subsection (1) shall submit with his appeal written arguments or explanations of the grounds of his appeal, and may further in person or through a representative appear before the council and tender any evidence or submit any argument or explanation to the council in support of the written arguments or explanations of his grounds of appeal.

(4) The registrar may in person or through a representative appear before the council and tender evidence or submit any argument or explanation to the council in support of the decision which is the subject of the appeal.".

Insertion of sections 39A and 39B in Act 72 of 1967.

27. The following sections are hereby inserted in the principal Act after section 39:

"Promulgation of rules and disciplinary inquiries.

39A. (1) The council shall from time to time, after consideration of any recommendation of the Representative Association of Medical Schemes, make rules specifying the acts or omissions in respect of which the council may, in terms of this section, take disciplinary steps against any registered medical scheme.

(2) No rule made in terms of subsection (1) or any amendment or withdrawal thereof shall be of force and effect until approved by the Minister and published in the *Gazette*.

(3) The council shall have power to institute an inquiry into any charge or allegation that any medical scheme registered under this Act is guilty of any act or omission specified in terms of subsection (1), and, on finding such scheme guilty of such act or omission, to impose any of the penalties prescribed in subsection (4).

(4) Every medical scheme registered under this Act which, after an inquiry held by the council, is found guilty of an act or omission contemplated in subsection (1), shall be liable to one or other of the following penalties—

(*a*) a caution or a reprimand or a reprimand and a caution; or

(*b*) suspension for a specified period of its registration; or

(*c*) cancellation of its registration.

(5) Every medical scheme of which the registration has thus been suspended or cancelled, shall be disqualified from carrying on the business of a medical scheme and its registration certificate shall be deemed to be cancelled until the period of suspension has expired or its registration has been restored as contemplated in subsection (11).

(6) Every medical scheme of which an act or omission is the subject of an inquiry under this

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

25. Artikel 36 van die Hoofwet word hierby herroep.

Herroeping van artikel 36 van Wet 72 van 1967.

26. Artikel 37 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 37 van Wet 72 van 1967, soos gewysig deur artikel 14 van Wet 95 van 1969.

„Appèl teen beslissing van registrateur.

37. (1) Iemand wat hom veronreg ag deur 'n beslissing van die registrateur kan binne 'n maand na die datum waarop die belissing gegee is, teen daardie beslissing appelleer na die raad en die raad kan ten opsigte van die appèl die bevel uitreik wat hy billik ag, en sy beslissing is afdoende.

(2) Die uitwerking van 'n beslissing wat die onderwerp van 'n appèl kragtens subartikel (1) is, word opgeskort hangende die beslissing van die raad oor die appèl.

(3) Iemand wat kragtens subartikel (1) appèl aanteken, moet skriftelike beredenerings of verduidelikings van die gronde van sy appèl, saam met die appèl voorlê, en kan bowendien self of deur 'n verteenwoordiger voor die raad verskyn en aan die raad getuienis aanbied of 'n beredenering of verduideliking voorlê ter stawing van die skriftelike beredenerings of verduidelikings van sy gronde van appèl.

(4) Die registrateur kan self of deur 'n verteenwoordiger voor die raad verskyn en aan hom getuienis aanbied of 'n beredenering of verduideliking voorlê ter stawing van die beslissing wat die onderwerp van appèl is.

27. Die volgende artikels word hierby in die Hoofwet na artikel 39 ingevoeg:

Invoeging van artikels 39A en 39B in Wet 72 van 1967.

„Uitvaardiging van reëls en tugondersoeke.

39A. (1) Die raad moet, na oorweging van 'n aanbeveling van die Verteenwoordigende Vereniging van Mediese Skemas, van tyd tot tyd reëls uitvaardig wat die handelinge of versuime uiteensit ten opsigte waarvan die raad, ingevolge hierdie artikel, tugstappe teen 'n geregistreerde mediese skema kan doen.

(2) Geen reël uitgevaardig ingevolge subartikel (1) of enige wysiging of intrekking daarvan is van krag nie alvorens dit deur die Minister goedgekeur en in die *Staatskoerant* gepubliseer is.

(3) Die raad is bevoeg om 'n ondersoek in te stel na 'n beskuldiging of bewering dat 'n mediese skema wat kragtens hierdie Wet geregistreer is, skuldig is aan 'n handeling of versuim uiteengesit ingevolge subartikel (1), en om, by skuldigbevinding van so 'n skema aan so 'n handeling of versuim, enige van die strawwe voorgeskryf in subartikel (4) op te lê.

(4) Iedere mediese skema wat kragtens hierdie Wet geregistreer is wat, na 'n ondersoek gehou deur die raad, skuldig bevind word aan 'n handeling of versuim bedoel in subartikel (1), is strafbaar met die een of ander van die volgende strawwe:

(*a*) 'n waarskuwing of 'n berisping of 'n berisping en 'n waarskuwing; of

(*b*) opskorting vir 'n vasgestelde tydperk van sy registrasie; of

(*c*) intrekking van sy registrasie.

(5) Iedere mediese skema wie se registrasie aldus opgeskort of ingetrek is, is onbevoeg om die sake van 'n mediese skema te doen en sy registrasiesertifikaat word geag ingetrek te wees totdat die tydperk van opskorting verstryk het of sy registrasie herstel is soos beoog in subartikel (11).

(6) Aan iedere mediese skema wie se handeling of versuim die onderwerp van 'n ondersoek kragtens

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

section, shall be afforded an opportunity, by itself or through its legal representative, of answering the charge and of being heard in its defence.

(7) Any penalty imposed by the council under subsection (4) shall be reduced to writing, shall be signed by the chairman of the council and shall be made known to the scheme concerned and thereafter such writing shall be dealt with in the prescribed manner.

(8) (*a*) For the purposes of any inquiry held in terms of this section, the council may take evidence and may, under the hand of its chairman or the registrar, summon witnesses and require the production of any book, record, document or thing, and may, through the chairman, administer an oath to any witness or accept an affirmation from him, and may examine any book, record, document or thing which any witness had been required to produce.

(*b*) A summons to appear before the council as a witness or to produce to it any book, record, document or thing shall be, as nearly as practicable, in the prescribed form, shall be signed by the chairman or the registrar and shall be served either by registered letter sent through the post or in the same manner as it would have been served if it were a subpoena issued by a magistrate's court.

(*c*) Every person summoned in terms of this subsection shall be bound to obey the summons and any person who, having duly been summoned—

(i) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;

(ii) refuses to take the oath or to make an affirmation when required by the chairman to do so;

(iii) refuses to produce any book, record, document or thing which he has in terms of the summons been required to produce; or

(iv) attends before the council but refuses to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, any question lawfully put to him,

shall be guilty of an offence and on conviction liable to a fine not exceeding one hundred rand: Provided that every person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the Supreme Court is entitled.

(9) The chairman of the council, where the council itself holds an inquiry in terms of this section, or the chairman of a committee of the council, where such committee holds an inquiry under powers delegated to it by the council, may appoint a person with adequate experience in the administration of justice to be present as an assessor at such an inquiry and to advise the council or such committee, as the case may be, on matters of law, procedure or evidence.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

hierdie artikel uitmaak, moet die geleentheid gegun word om, òf in eie persoon òf deur sy regsverteenwoordiger, op die beskuldiging te antwoord en sy verdediging aan te voer.

(7) 'n Straf deur die raad kragtens subartikel (4) opgelê, moet op skrif gestel word, moet deur die voorsitter van die raad onderteken word en moet aan die betrokke skema bekend gemaak word, en daarna moet met daardie geskrif op die voorgeskrewe wyse gehandel word.

(8) (*a*) Die raad kan, vir die doeleindes van 'n ondersoek wat ingevolge hierdie artikel gehou word, getuienis afneem en kan, onder die handtekening van sy voorsitter of die registrateur getuies dagvaar en die voorlegging van enige boek, aantekening, dokument of voorwerp eis, en kan, deur die voorsitter, 'n getuie 'n eed oplê of 'n bevestiging van hom aanneem en kan 'n boek, aantekening, dokument of voorwerp waarvan die voorlegging van 'n getuie vereis is, ondersoek.

(*b*) 'n Dagvaarding om as 'n getuie voor die raad te verskyn of om aan hom 'n boek, aantekening, dokument of voorwerp voor te lê, moet so na as moontlik in die voorgeskrewe vorm wees, moet deur die voorsitter of die registrateur onderteken wees en moet bestel word òf deur versending per pos in 'n aangetekende brief, òf op dieselfde wyse as dié waarop dit bestel sou gewees het indien dit 'n getuiedagvaarding was wat deur 'n landdroshof uitgereik is.

(*c*) Iedereen wat ingevolge hierdie subartikel gedagvaar word, is verplig om die dagvaarding te gehoorsaam en iemand wat, nadat hy behoorlik gedagvaar is—

(i) weier, of sonder genoegsame rede versuim, om op die in die dagvaarding vermelde tye en plek aanwesig te wees en by die ondersoek tersaaklike getuienis te lewer;

(ii) weier om die eed of 'n bevestiging af te lê wanneer hy deur die voorsitter versoek word om dit te doen;

(iii) weier om 'n boek, aantekening, dokument of voorwerp voor te lê wat hy ingevolge die dagvaarding verplig is om voor te lê; of

(iv) voor die raad verskyn maar weier om 'n vraag wettiglik aan hom gestel, te beantwoord of volledig en bevredigend na sy beste wete en oortuiging te beantwoord,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens honderd rand: Met dien verstande dat iedereen wat aldus gedagvaar is, op al die privilegies geregtig is waarop 'n getuie wat gedagvaar is om voor 'n provinsiale afdeling van die Hooggeregshof getuienis af te lê, geregtig is.

(9) Die voorsitter van die raad, waar die raad self 'n ondersoek ingevolge hierdie artikel hou, of die voorsitter van 'n komitee van die raad, waar so 'n komitee 'n ondersoek hou kragtens bevoegdhede wat deur die raad aan hom gedelegeer is, kan iemand met voldoende ondervinding van die regspleging aanstel om as assessor teenwoordig te wees by so 'n ondersoek en om die raad of so 'n komitee, na gelang van die geval, in verband met regsvrae, prosedure of bewyslewering van advies te dien.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(10) Any person aggrieved by a finding of or penalty imposed by the council in terms of this section, may, after notice to the council and within a period of two months after the date of such finding or the imposition of the penalty, appeal to the provincial or local division of the Supreme Court of South Africa having jurisdiction in the area wherein the appellant's head office is registered, against such finding or penalty and the court may dismiss such appeal or set aside or vary the finding of the council or the penalty imposed by it or make such other order, including an order as to costs, as it may deem appropriate: Provided that no finding of or penalty imposed by the council shall be set aside by reason only of an irregularity which did not embarrass or prejudice the apellant in answering the charge or in the conduct of his defence.

(11) The council may, if it deems fit, and subject to such conditions, if any, as it may determine—

(*a*) terminate any suspension of registration under subsection (4) (*b*) before the expiry of the specified period;

(*b*) restore any registration cancelled under subsection (4) (*c*);

(*c*) on application by the medical scheme concerned made after expiry of the prescribed period, restore any registration cancelled under subsection (4) (*c*).

Postponement of imposition of penalty and suspension of operation of penalty.

39B. (1) Where the council finds a registered medical scheme guilty as contemplated in section 39A (4), it may—

(*a*) postpone for such period and on such conditions as may be determined by it, the imposition of the penalty; or

(*b*) impose any penalty mentioned in paragraph (*b*) or (*c*) of section 39A (4), but order the execution of such penalty to be suspended for such period and on such conditions as may be determined by it.

(2) (*a*) If at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1) (*a*), the council is satisfied that the medical scheme concerned has observed all the relevant conditions, the council shall inform the scheme concerned that no penalty will be imposed upon it.

(*b*) If the execution of a penalty has been suspended in terms of subsection (1) (*b*), and the council is satisfied that the scheme concerned has observed all relevant conditions throughout the period of suspension, the council shall inform such scheme that such penalty will not be executed.

(*c*) If the execution of a penalty has been suspended in terms of subsection (1) (*b*) and the scheme concerned fails to observe any of the conditions of suspension, the council shall put such penalty into operation, unless such scheme satisfies the council that the non-observance of the condition concerned was due to circumstances beyond its control.".

Substitution of section 40 of Act 72 of 1967.

28. The following section is hereby substituted for section 40 of the principal Act:

"Offences and penalties.

40. (1) Any person who contravenes any provision of this Act or fails to comply with any request or requirement made thereunder, shall, subject to the

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

(10) 'n Persoon wat hom veronreg voel deur 'n bevinding van of straf opgelê deur die raad ingevolge hierdie artikel, kan, na kennisgewing aan die raad en binne 'n tydperk van twee maande na die datum van daardie bevinding of die oplegging van die straf, teen daardie bevinding of straf by die provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika wat regsbevoegdheid het in die gebied waarin die appellant se hoofkantoor geregistreer is, appèl aanteken en die hof kan so 'n appèl van die hand wys of die bevinding van of straf opgelê deur die raad tersyde stel of wysig of die ander bevel, met inbegrip van 'n bevel aangaande koste, wat hy toepaslik ag, uitreik: Met dien verstande dat geen bevinding van of straf opgelê deur die raad tersyde gestel word nie bloot op grond van 'n onreëlmatigheid wat die appellant nie by die beantwoording van die beskuldiging of in sy verdediging benadeel het nie.

(11) Die raad kan na goeddunke, en behoudens die voorwaardes, as daar is, wat hy bepaal—

(*a*) enige opskorting van registrasie kragtens subartikel (4) (*b*), voor die verstryking van die vasgestelde tydperk beëindig;

(*b*) enige registrasie herstel wat kragtens subartikel (4) (*c*) ingetrek is;

(*c*) op aansoek deur die betrokke mediese vereniging na verstryking van die voorgeskrewe tydperk gedoen, enige registrasie herstel wat kragtens subartikel (4) (*c*) ingetrek is.

Uitstel van oplegging van straf en opskorting van tenuitvoerlegging van straf.

39B. (1) Waar die raad 'n geregistreerde mediese skema skuldig bevind soos beoog in artikel 39A (4), kan hy—

(*a*) die oplegging van die straf vir die tydperk en op die voorwaardes wat deur hom bepaal word, uitstel; of

(*b*) 'n straf vermeld in paragraaf (*b*) of (*c*) van artikel 39A (4) oplê, maar beveel dat die tenuitvoerlegging van die straf uitgestel word vir die tydperk en op die voorwaardes wat deur hom bepaal word.

(2) (*a*) Indien die raad oortuig is, na afloop van die tydperk waarvoor die oplegging van 'n straf ingevolge subartikel (1) (*a*) uitgestel is, dat die betrokke mediese skema al die toepaslike voorwaardes nagekom het, moet die raad die betrokke skema meedeel dat geen straf hom opgelê gaan word nie.

(*b*) Indien die tenuitvoerlegging van 'n straf ingevolge subartikel (1) (*b*) uitgestel is en die raad oortuig is dat die betrokke skema gedurende die hele tydperk van die opskorting alle toepaslike voorwaardes nagekom het, moet die raad sodanige skema meedeel dat sodanige straf nie ten uitvoer gelê gaan word nie.

(*c*) Indien die tenuitvoerlegging van 'n straf opgeskort is ingevolge subartikel (1) (*b*) en die betrokke skema versuim om enige van die voorwaardes van opskorting na te kom, moet die raad sodanige straf ten uitvoer lê, tensy sodanige skema die raad oortuig dat die nienakoming van die betrokke voorwaarde te wyte is aan omstandighede buite sy beheer.".

Vervanging van artikel 40 van Wet 72 van 1967.

28. Artikel 40 van die Hoofwet word hierby deur die volgende artikel vervang:

„Misdrywe en strawwe.

40. (1) Iemand wat 'n bepaling van hierdie Wet oortree of versuim om te voldoen aan 'n versoek of vereiste wat uit krag daarvan gerig of gestel is, is,

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

provisions of subsection (2), be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

(2) No contravention or failure to comply with any request or requirement shall be punishable under subsection (1) if the act or omission constituting that contravention or failure to comply with any request or requirement is punishable as an offence under the provisions of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974).

(3) Without derogation from the provisions of subsection (1), a medical scheme which has failed—

(*a*) to pay the contributions referred to in section 26;

(*b*) to submit to the registrar such statistical or other information regarding such scheme, or such return, report, account, statement or other document as may be required by this Act; or

(*c*) to reply to an enquiry addressed to it by the registrar in terms of section 24,

within the time prescribed in the appropriate provision of this Act or the regulations, may thereafter pay such contributions or submit such statistical or other information or such return, report, account, statement or other document or reply to such enquiry, subject to the payment of a penalty prescribed by regulation.

(4) Any penalty prescribed under subsection (3) may vary according to the period which has elapsed since the last day on which the contributions were required to be paid, the statistical or other information or the return, report, account, statement or other document was required to be submitted or the enquiry was required to be replied to.

(5) For the purposes of subsection (3) the decision of the registrar as to the time within which such contributions, statistical or other information or return, report, account, statement or other document or enquiry was required to be paid, submitted or replied to, shall be final.

(6) Any penalty payable under subsection (3) shall be a debt due to the fund and may be recovered by the registrar by action in any competent court.".

Substitution of section 41 of Act 72 of 1967, as amended by section 15 of Act 95 of 1969 and section 5 of Act 49 of 1972.

29. (1) The following section is hereby substituted for section 41 of the principal Act:

"Regulations.

41. (1) The Minister may, on the recommendation of the council, make regulations relating to—

(*a*) the minimum and maximum benefits to which members of registered medical schemes and their dependants shall be entitled under such schemes;

(*aA*) the provision by registered medical schemes to their members of written proof of membership, and the particulars such proof shall or may contain;

(*b*) the conditions subject to which any person who has terminated his membership of a registered medical scheme shall be enrolled as a member of any other registered medical scheme;

(*c*) the basis on which the subscription payable in respect of the benefits provided by a registered medical scheme shall be determined;

(*d*) the times when and the basis on which contributions shall be paid to the fund by registered

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

behoudens die bepalings van subartikel (2), aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of met sowel daardie boete as daardie gevangenisstraf.

(2) Geen oortreding of versuim om te voldoen aan 'n versoek of vereiste is kragtens subartikel (1) strafbaar nie indien die handeling of versuim wat daardie oortreding of versuim om aan 'n versoek of vereiste te voldoen, uitmaak, kragtens die bepalings van die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), as 'n misdryf strafbaar is.

(3) Sonder om afbreuk te doen aan die bepalings van subartikel (1), kan 'n mediese skema wat versuim het om binne die tydperk voorgeskryf in die toepaslike bepaling van hierdie Wet of die regulasies—

(*a*) die in artikel 26 bedoelde bydraes te stort;

(*b*) die statistiese of ander gegewens betreffende die skema of die opgawe, verslag, rekening, staat of ander dokument wat deur hierdie Wet vereis word aan die registrateur voor te lê; of

(*c*) te antwoord op 'n navraag kragtens artikel 24 deur die registrateur aan hom gerig,

daarna sodanige bydraes stort of sodanige statistiese of ander gegewens of sodanige opgawe, verslag, rekening, staat of ander dokument voorlê of sodanige navrae beantwoord, onderworpe aan die betaling van 'n boete wat by regulasie voorgeskryf word.

(4) 'n Boete wat kragtens subartikel (3) voorgeskryf word, kan wissel ooreenkomstig die tydperk wat verstryk het sedert die laaste dag waarop die bydraes gestort, die statistiese of ander gegewens of die opgawe, verslag, rekening, staat of ander dokument voorgelê of die navrae beantwoord moes gewees het.

(5) By die toepassing van subartikel (3) is die beslissing van die registrateur aangaande die tydperk waarbinne sodanige bydraes, statistiese of ander gegewens of opgawe, verslag, rekening, staat of ander dokument of navrae gestort, voorgelê of beantwoord moes gewees het, afdoende.

(6) 'n Boete betaalbaar kragtens subartikel (3) maak 'n skuld aan die fonds uit en kan deur die registrateur deur aksie in 'n bevoegde hof verhaal word.".

Vervanging van artikel 41 van Wet 72 van 1967, soos gewysig deur artikel 15 van Wet 95 van 1969 en artikel 5 van Wet 49 van 1972.

29. (1) Artikel 41 van die Hoofwet word hierby deur die volgende artikel vervang:

„Regulasies. **41.** (1) Die Minister kan, op die aanbeveling van die raad, regulasies uitvaardig met betrekking tot—

(*a*) die minimum en maksimum voordele waarop lede van geregistreerde mediese skemas en hul afhanklikes kragtens sodanige skemas geregtig is;

(*a*A) die verstrekking deur geregistreerde mediese skemas van skriftelike bewys van lidmaatskap aan hul lede, en die besonderhede wat sodanige bewys moet of kan bevat;

(*b*) die voorwaardes waarop iemand wat sy lidmaatskap van 'n geregistreerde mediese skema beëindig het, as lid van 'n ander geregistreerde mediese skema ingeskryf moet word;

(*c*) die grondslag waarop die ledegelde bepaal word wat betaalbaar is ten opsigte van die voordele deur 'n geregistreerde mediese skema verskaf;

(*d*) die tye wanneer en die grondslag waarop bydraes deur geregistreerde mediese skemas of

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

medical schemes or different categories of such schemes;

(*dA*) the utilization of the moneys in the fund;

(*dB*) the investment of its funds by a registered medical scheme;

(*e*) the manner in and the period within which any payment due under a registered medical scheme shall be made;

(*f*) the supply to the registrar by registered medical schemes of statistical and other information relating to such schemes;

(*g*) the convening and conduct of and the procedure at meetings of the council or any committee appointed by the council, including the quorum for any meeting of any such committee;

(*h*) all other matters which are by this Act required or permitted to be prescribed,

and generally relating to all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(2) The Minister shall, not less than three months before any regulation is made under subsection (1), cause a copy of the proposed regulation to be published in the *Gazette* together with a notice declaring his intention to make that regulation and inviting interested persons to furnish him with their comments thereon or any representations they may wish to make in regard thereto.

(3) The provisions of subsection (2) shall not apply in respect of—

(*a*) any regulation made by the Minister and, after the provisions of that subsection have been complied with, amended by the Minister in consequence of comments or representations received by him in pursuance of a notice issued thereunder; or

(*b*) any regulation in respect of which the Minister, after consultation with the executive committee of the council, is of the opinion that the public interest requires it to be made without delay.

(4) No regulation shall be made under subsection (1) (*c*) except with the concurrence of the Minister of the Interior and the Minister of Posts and Telecommunications.".

(2) Any regulation made under section 41 of the principal Act prior to its substitution by subsection (1) shall be deemed to have been made under the said section 41 as so substituted.

Substitution of section 42 of Act 72 of 1967.

30. The following section is hereby substituted for section 42 of the principal Act:

"Council to report cases of improper or disgraceful conduct to the South African Medical and Dental Council, the South African Pharmacy Board or the South African Nursing Council.

42. Whenever it appears to the council that the conduct of any person registered under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), the Pharmacy Act, 1974 (Act No. 53 of 1974), or the Nursing Act, 1957 (Act No. 69 of 1957), is such as to constitute improper or disgraceful conduct or conduct which, when regard is had to such person's profession, is improper or disgraceful, the council shall report the matter to the South African Medical and Dental Council, the South African Pharmacy Board or the South African Nursing Council, whichever council or board has jurisdiction in the matter.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

verskillende kategorieë van sodanige skemas in die fonds gestort moet word;

(*d*A) die aanwending van die gelde in die fonds;

(*d*B) die belegging van sy fondse deur 'n mediese skema;

(*e*) die wyse waarop en die tydperk waarin 'n betaling wat kragtens 'n mediese skema verskuldig is, gedoen moet word;

(*f*) die verstrekking aan die registrateur deur geregistreerde mediese skemas van statistiese en ander inligting betreffende sodanige skemas;

(*g*) die byeenroep en hou van en die prosedure op vergaderings van die raad of 'n komitee deur die raad aangestel, met inbegrip van die kworum van 'n vergadering van so 'n komitee;

(*h*) alle ander aangeleenthede wat kragtens hierdie Wet voorgeskryf moet of kan word,

en oor die algemeen met betrekking tot alle aangeleenthede wat hy nodig of dienstig ag om voor te skryf sodat die doelstellinge van hierdie Wet verwesenlik kan word.

(2) Minstens drie maande voordat 'n regulasie kragtens subartikel (1) uitgevaardig word, laat die Minister 'n afskrif van die voorgestelde regulasie in die *Staatskoerant* publiseer tesame met 'n kennisgewing waarin hy sy voorneme te kenne gee om daardie regulasie uit te vaardig en belanghebbendes uitnooi om hom van hul kommentaar daarop of vertoë wat hul in verband daarmee wil rig, te voorsien.

(3) Die bepalings van subartikel (2) is nie van toepassing nie ten opsigte van—

(*a*) 'n regulasie deur die Minister uitgevaardig wat, nadat aan die bepalings van daardie subartikel voldoen is, deur die Minister gewysig is ten gevolge van kommentaar of vertoë deur hom ontvang uit hoofde van 'n kennisgewing uit krag daarvan uitgereik; of

(*b*) 'n regulasie ten opsigte waarvan die Minister, na oorleg met die uitvoerende komitee van die raad, van oordeel is dat dit in die openbare belang is dat dit sonder versuim uitgevaardig word.

(4) Geen regulasie word kragtens subartikel (1) (*c*) uitgevaardig nie, behalwe met die instemming van die Minister van Binnelandse Sake en die Minister van Pos- en Telekommunikasiewese.".

(2) 'n Regulasie uitgevaardig kragtens artikel 41 van die Hoofwet voor die vervanging daarvan deur subartikel (1) word geag kragtens bedoelde artikel 41 soos aldus vervang, uitgevaardig te gewees het.

Vervanging van artikel 42 van Wet 72 van 1967.

30. Artikel 42 van die Hoofwet word hierby deur die volgende artikel vervang:

„Raad moet gevalle van onbetaamlike of skandelike gedrag aan die Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad, die Suid-Afrikaanse Aptekersraad of die Suid-Afrikaanse Verpleegstersraad rapporteer.

42. Wanneer dit vir die raad blyk dat die gedrag van iemand wat kragtens die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), die Wet op Aptekers, 1974 (Wet No. 53 van 1974), of die Wet op Verpleging, 1957 (Wet No. 69 van 1957), geregistreer is, sodanig is dat dit onbetaamlike of skandelike gedrag uitmaak of gedrag wat met inagneming van so iemand se beroep, onbetaamlik of skandelik is, moet die raad die aangeleentheid rapporteer aan die Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad, die Suid-Afrikaanse Aptekersraad of die Suid-Afrikaanse Verpleegstersraad, watter raad ook al regsbevoegdheid in die saak het.".

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

Amendment of section 2 of Act 25 of 1956.

31. Section 2 of the Friendly Societies Act, 1956, is hereby amended by the deletion of paragraph (*c*) of subsection (1).

Amendment of section 20 of Act 25 of 1956, as amended by section 15 of Act 80 of 1959.

32. Section 20 of the Friendly Societies Act, 1956, is hereby amended by the deletion of paragraph (*c*) of subsection (5).

Amendment of section 1 of Act 68 of 1962.

33. Section 1 of the Inspection of Financial Institutions Act, 1962, is hereby amended—

(*a*) by the addition to the definition of "financial institution" of the words "or a medical scheme registered under the Medical Schemes Act, 1967 (Act No. 72 of 1967)"; and

(*b*) by the insertion after paragraph (*f*) of the definition of "registrar" of the following paragraph:

"(*g*) the Medical Schemes Act, 1967 (Act No. 72 of 1967), means the Registrar of Medical Schemes appointed under section 13 of that Act:".

Short title.

34. This Act shall be called the Medical Schemes Amendment Act, 1975.

Reproduced by Sabinet Online in terms of Government Printer's Copyright Authority No. 10505 dated 02 February 1998

31. Artikel 2 van die Wet op Onderlinge Hulpverenigings, 1956, word hierby gewysig deur paragraaf (*c*) van subartikel (1) te skrap.

Wysiging van artikel 2 van Wet 25 van 1956.

32. Artikel 20 van die Wet op Onderlinge Hulpverenigings, 1956, word hierby gewysig deur paragraaf (*c*) van subartikel (5) te skrap.

Wysiging van artikel 20 van Wet 25 van 1956, soos gewysig deur artikel 15 van Wet 80 van 1959.

33. Artikel 1 van die Wet op Inspeksie van Finansiële Instellings, 1962, word hierby gewysig—

(*a*) deur die woorde „of 'n mediese skema wat kragtens die Wet op Mediese Skemas, 1967 (Wet No. 72 van 1967), geregistreer is" by die omskrywing van „finansiële instelling" te voeg; en

(*b*) deur na paragraaf (*f*) van die omskrywing van „registrateur" die volgende paragraaf in te voeg:

"(*g*) die Wet op Mediese Skemas, 1967 (Wet No. 72 van 1967), die Registrateur van Mediese Skemas wat kragtens artikel 13 van daardie Wet aangestel is:".

Wysiging van artikel 1 van Wet 68 van 1962.

34. Hierdie Wet heet die Wysigingswet op Mediese Skemas, 1975.

Kort titel.