



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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DEPARTEMENT VAN DIE EERSTE MINISTER:

DEPARTMENT OF THE PRIME MINISTER

No. 1236. 23 Julie 1976.

No. 1236. 23 July 1976.

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

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

No. 101 van 1976: Wysigingswet op Finansiële Instellings, 1976.

No. 101 of 1976: Financial Institutions Amendment Act, 1976.

## WET

Tot wysiging van die Versekeringswet, 1943, ten einde sekere uitdrukkings te omskryf of nader te omskryf; voorsiening te maak vir die omskepping van buitelandse versekeraars tot binnelandse versekeraars; die voorskrifte met betrekking tot opgawes en waardering van bates en opgawes en waardering van verbintenisse te wysig; die besit van bates verder te reël; voorsiening te maak vir die reëling van vergoeding vir sekere dienste; die beperking op betalings by die dood van kinders te wysig; en die bepalinge met betrekking tot strawwe aan te vul; tot wysiging van die Wet op Beheer van Effektebeurse, 1947, ten einde die publikasie deur 'n ander persoon as 'n gelisensieerde effektebeurs van besonderhede ten opsigte van sekere effekte te verbied; tot wysiging van die Wet op Beheer van Effektetrustskemas, 1947, ten einde die uitdrukking „likwiede bates” te omskryf; die voorskrifte met betrekking tot die insluiting van goedgekeurde effekte in elke effektegroep te vervang en in plaas daarvan voorsiening te maak vir die insluiting van likwiede bates in sekere effektegroepe; en ook 'n binnelandse versekeraar toe te laat om as trustee vir 'n effektetrustskema op te tree; tot wysiging van die Wet op Pensioenfondse, 1956, ten einde sekere uitdrukkings te omskryf of nader te omskryf; die besit van bates vir die doeleindes van artikel 19 (1) van genoemde Wet en die toestaan van lenings deur pensioenfondse aan hulle lede verder te reël; en om vir die beskerming van pensioenvoordele voorsiening te maak; tot wysiging van die Wet op Onderlinge Hulpverenigings, 1956, ten einde die omskrywing van die uitdrukking „registrateur” te verander; die bedrag waarvoor die lewe van 'n kind benede die leeftyd van veertien jaar verseker mag word, te verhoog; die besit van bates vir die doeleindes van artikel 20 (2) van genoemde Wet verder te reël; en om bykomende bevoegdhede aan die registrateur te verleen; tot wysiging van die Wet op Inspeksie van Finansiële Instellings, 1962, ten einde die bepalinge daarvan op administrateurs van die sake van onderlinge hulpverenigings toe te pas; tot wysiging van die Wet op Deelnemingsverbande, 1964, ten einde die voorwaardes waarop gelde vir belegging in deelnemingsverbande ontvang mag word, te wysig; die regte van deelnemers in deelnemingsverbande om hulle regte teenoor verbandgewers te handhaaf en om sodanige regte oor te dra of te sedeer, te wysig; voorsiening te maak vir die samesmelting van deelnemingsverbandskemas; en die voorwaardes waarop die reëls van 'n deelnemingsverbandskema gewysig mag word, uit te brei; tot wysiging van die Bankwet, 1965, ten einde sekere uitdrukkings te omskryf of nader te omskryf; vrystelling van die bepalinge van die Wet uit te brei; die gronde vir intrekking of opskorting van registrasie van 'n bankinstelling uit te brei; voorsiening te maak vir die registrasie van bankbeheermaatskappye en die intrekking van sodanige registrasie, en die voorlegging deur hulle van opgawes aan die registrateur te vereis; die bevoegdhede om aanvullende likwiede bates voor te skryf, uit te brei; beperkings te plaas op sekere

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**ACT**

To amend the Insurance Act, 1943, so as to define or further define certain expressions; to provide for the conversion of foreign insurers into domestic insurers; to amend the provisions relating to statements and valuation of assets and statements and valuation of liabilities; to further regulate the holding of assets; to provide for the regulation of remuneration for certain services; to amend the restriction on payments on death of children; and to supplement the provisions relating to penalties; to amend the Stock Exchanges Control Act, 1947, so as to prohibit the publication by a person, other than a licensed stock exchange, of particulars in respect of certain securities; to amend the Unit Trusts Control Act, 1947, so as to define the expression "liquid assets"; to replace the provisions relating to the inclusion of approved securities in every unit portfolio and to provide instead for the inclusion of liquid assets in certain unit portfolios; and to allow also a domestic insurer to act as trustee to a unit trust scheme; to amend the Pension Funds Act, 1956, so as to define or further define certain expressions; to further regulate the holding of assets for the purposes of section 19 (1) of the said Act and the granting of loans by pension funds to their members; and to provide for the protection of pension benefits; to amend the Friendly Societies Act, 1956, so as to alter the definition of the expression "registrar"; to increase the amount for which the life of a child under the age of fourteen years may be insured; to further regulate the holding of assets for the purposes of section 20 (2) of the said Act; and to grant additional powers to the registrar; to amend the Inspection of Financial Institutions Act, 1962, so as to apply the provisions thereof to administrators of the affairs of friendly societies; to amend the Participation Bonds Act, 1964, so as to alter the conditions on which moneys may be accepted for investment in participation bonds; to alter the rights of participants in participation bonds to enforce their rights against mortgagors and to transfer or cede such rights; to provide for the amalgamation of participation bond schemes; and to extend the conditions on which the rules of a participation bond scheme may be amended; to amend the Banks Act, 1965, so as to define or further define certain expressions; to extend the exemptions from the provisions of the Act; to extend the grounds for cancellation or suspension of registration of a banking institution; to provide for the registration of bank controlling companies and the cancellation of such registration and to require the submission by them of returns to the registrar; to extend the powers to prescribe supplementary liquid assets; to restrict certain transactions by banking institutions; to subject the establishment or acquisition of a subsidiary by a banking institution to the approval of the registrar; to require the submission by banking institutions of certain particulars to the registrar; to restrict the number of banking institutions which may be controlled by a controlling banking institution or a bank con-

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transaksies deur bankinstellings; die stigting of verkryging van 'n filiaal deur 'n bankinstelling aan die goedkeuring van die registrateur onderworpe te stel; die voorlegging van sekere besonderhede deur bankinstellings aan die registrateur te vereis; die getal bankinstellings wat deur 'n beherende-bankinstelling of 'n bankbeheermaatskappy beheer mag word, te beperk; verteenwoordiging in die Republiek van buitelandse banke aan die goedkeuring van die registrateur onderworpe te stel; die uitreiking van sekere soorte aandele asook die registrasie van aandele op die naam van 'n genomineerde te verbied; voorsiening te maak vir die verstreking van sekere inligting deur aandeelhouders van 'n bankinstelling of bankbeheermaatskappy en vir die klassifisering van aandeelhouders; bankinstellings, bankbeheermaatskappye en hulle amptenare in geval van optrede te goeder trou te vrywaar teen vervolging; aandeelbesit in bankinstellings en in bankbeheermaatskappye te beperk; voorsiening te maak vir die vermindering onder sekere omstandighede van die aandeelbesit van buitelanders in bankinstellings en bankbeheermaatskappye; en aansuiwering van die lederegister te vereis; en tot wysiging van die Bouwregwet, 1965, ten einde die uitdrukking „voorgeskrewe beleggings” nader te omskryf; die omstandighede waaronder sekere aandele terugbetaal mag word, nit te brei; en die vereistes ten opsigte van takouditeure te wysig; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)  
(Goedgekeur op 5 Julie 1976.)

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

Wysiging van artikel 1 van Wet 27 van 1943, soos gewysig deur artikel 2 van Wet 73 van 1951, artikel 39 van Wet 24 van 1956, artikel 50 van Wet 25 van 1956, artikel 1 van Wet 79 van 1959, artikel 1 van Wet 10 van 1965, artikel 1 van Wet 41 van 1966, artikel 1 van Wet 65 van 1968, artikel 1 van Wet 39 van 1969 en artikel 1 van Wet 91 van 1972.

1. Artikel 1 van die Versekeringwet, 1943, word hierby gewysig—

- (a) deur in subartikel (1) subparagraaf (iii) van paragraaf (a) van die omskrywing van „goedgekeurde herversekering” deur die volgende subparagraaf te vervang:
- „(iii) in die geval van korttermynversekeringsbesigheid en verpligte derdeparty-versekeringsbesigheid, enige herversekering aangegaan onder 'n herversekeringpolis of -kontrak ingevolge waarvan die herversekeraar in die Republiek geld hou by die versekeraar deur wie die herversekering aangegaan is waarop die versekeraar 'n eerste aanspraak en pandreg het as sekuriteit teen verliese wat veroorsaak mag word ingeval die herversekeraar versuim om sy verpligtings kragtens bedoelde polis of kontrak na te kom of ingeval bedoelde polis of kontrak om die een of ander rede ten einde kom;”;
- (b) deur in genoemde subartikel (1) die omskrywing van „binnelandse versekeraar” deur die volgende omskrywing te vervang:
- „binnelandse versekeraar’ beteken 'n geregistreerde versekeraar wie se hoofkantoor in die Republiek is, en ook enige ander geregistreerde versekeraar wat ingevolge subartikel (4) van artikel 3quat geag word 'n binnelandse versekeraar te wees;”;
- (c) deur in genoemde subartikel (1) die omskrywing van „begrafnispolis” deur die volgende omskrywing te vervang:
- „begrafnispolis’ beteken 'n polis waarby die versekeraar 'n verpligting aanvaar as teenprestasie vir 'n premie of die belofte van 'n premie om, by die dood van iemand, voordele te verskaf waarby be-

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trolling company; to subject representation in the Republic of foreign banks to the approval of the registrar; to prohibit the issue of certain types of shares as well as the registration of shares in the name of a nominee; to provide for the submission of certain information by shareholders of a banking institution or a bank controlling company and for the classification of shareholders; to indemnify banking institutions, bank controlling companies and their officers against prosecution in the case of *bona fide* actions; to limit shareholding in banking institutions and in bank controlling companies; to provide for the reduction in certain circumstances of the shareholdings of foreigners in banking institutions and bank controlling companies; and to require adjustment of the register of members; and to amend the Building Societies Act, 1965, so as to further define the expression "prescribed investments"; to extend the circumstances under which certain shares may be repaid; and to alter the requirements in respect of branch auditors; and to provide for incidental matters.

(English text signed by the State President.)  
(Assented to 5 July 1976.)

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

1. Section 1 of the Insurance Act, 1943, is hereby amended—
- (a) by the substitution in subsection (1) for subparagraph (iii) of paragraph (a) of the definition of "approved reinsurances" of the following subparagraph:
- “(iii) in the case of short-term insurance business and compulsory third party insurance business, any reinsurances effected under a policy or contract of reinsurance in terms of which the reinsurer maintains in the Republic moneys with the insurer by whom such reinsurance was effected on which the insurer has a prior charge and lien as security against losses which may be occasioned by the failure of the reinsurer to discharge his obligations under the said policy or contract or by the termination of such policy or contract for any reason;”
- (b) by the substitution in the said subsection (1) for the definition of "domestic insurer" of the following definition:
- “‘domestic insurer’ means a registered insurer whose head office is in the Republic and includes any other registered insurer who is in terms of subsection (4) of section 3<sup>quat</sup> deemed to be a domestic insurer;”
- (c) by the substitution in the said subsection (1) for the definition of "funeral policy" of the following definition:
- “‘funeral policy’ means a policy whereby the insurer assumes an obligation, in return for a premium or the promise of a premium, to provide, on the death of any person, benefits which involve

Amendment of section 1 of Act 27 of 1943, as amended by section 2 of Act 73 of 1951, section 39 of Act 24 of 1956, section 50 of Act 25 of 1956, section 1 of Act 79 of 1959, section 1 of Act 10 of 1965, section 1 of Act 41 of 1966, section 1 of Act 65 of 1968, section 1 of Act 39 of 1969 and section 1 of Act 91 of 1972.

drae wat in die geheel hoogstens vyfhonderd rand beloop, betrokke is en wat hoofsaaklik bestaan uit—

(a) voorsiening vir die begrafnis van daardie persoon; of

(b) die toestaan van 'n ander nie-geldelike voordeel aan iemand,

afgesien daarvan of die polis voorsiening maak vir die betaling, na keuse van die versekeraar of iemand anders, van 'n som geld in plaas van die voorsiening van bedoelde begrafnis of die toestaan van bedoelde ander nie-geldelike voordeel, en afgesien daarvan of dit voorsiening maak vir die betaling van 'n som geld benewens die voorsiening van bedoelde begrafnis of die toestaan van bedoelde ander nie-geldelike voordeel;";

(d) deur in genoemde subartikel (1) die omskrywing van „nywerheidspolis” deur die volgende omskrywing te vervang:

„nywerheidspolis’ beteken 'n ander polis as 'n begrafnispolis, waarin die versekeraar so 'n verpligting aanvaar as wat beskrywe word in die omskrywing van die woord ‚lewenspolis’ wat nie in waarde die bedrag van duisend rand te bowe gaan nie as teenprestasie vir 'n premie of vir 'n belofte van 'n premie wat van tyd tot tyd betaal moet word met tussenpose van nie meer as twee maande nie, as die versekeraar uitdruklik of stilswygend belowe het om van tyd tot tyd iemand na die eienaar van die polis of na sy woning of werkplek te stuur om die premies in te samel;";

(e) deur in genoemde subartikel (1) paragraaf (a) van die omskrywing van „versekeringsbesigheid” deur die volgende paragraaf te vervang:

„(a) die werksaamhede van 'n onderlinge hulpvereniging, tensy so 'n vereniging iemand in diens het wie se vernaamste besoldigde werksaamheid daaruit bestaan om persone te beweeg om lede van die vereniging te word, of om lede van die vereniging by hul woonplekke of hul werkplekke te besoek ten einde bydraes of intekengelde tot die fondse van die vereniging van hulle in te vorder, of tensy so 'n onderlinge hulpvereniging 'n jaargeld van meer as honderd vier-en-veertig rand per jaar toeken, of voorsiening maak ten opsigte van 'n lid of ander persoon vir betalings, hetsy by die dood van so 'n lid of ander persoon of in die vorm van 'n begiftiging of uitkeringsversekering op die lewe van so 'n lid of ander persoon, wat in die geheel die som van duisend rand (afgesien van bonusse) te bowe gaan, te eniger tyd na die datum van inwerkingtreding van die Wet op Onderlinge Hulpverenigings, 1956, en nie by wyse van vervulling van 'n verpligting wat voor bedoelde datum bestaan het nie;";

(f) deur in genoemde subartikel (1) na die omskrywing van „motorbesigheid” die volgende omskrywing in te voeg:

„onderlinge versekeraar’ beteken 'n versekeraar—

(a) van wie al die lede—

(i) lidmaatskap verwerf slegs uit hoofde daarvan dat hulle eienaars van polisse is wat deur die versekeraar uitgereik is; en

(ii) geregtig is om deel te hê in die uitoefening van beheer deur 'n algemene vergadering van daardie versekeraar; en

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amounts not exceeding in the aggregate five hundred rand and which consist principally of—

- (a) provision for the funeral of that person; or
- (b) the grant of some other non-monetary benefit to any person,

whether or not the policy provides for the payment, at the option of the insurer or any other person, of a sum of money in lieu of the provision of such funeral or the grant of such other non-monetary benefit, and whether or not it provides for the payment of a sum of money in addition to the provision of such funeral or the grant of such other non-monetary benefit;”;

- (d) by the substitution in the said subsection (1) for the definition of “industrial policy” of the following definition:

“‘industrial policy’ means a policy (other than a funeral policy) whereby the insurer assumes such an obligation as is described in the definition of the expression ‘life policy’, not exceeding in value the sum of one thousand rand, in return for a premium or the promise of a premium payable from time to time at intervals not exceeding two months, if the insurer has expressly or tacitly undertaken to send a person from time to time to the owner of the policy or to his residence or place of work to collect the premiums;”;

- (e) by the substitution in the said subsection (1) for paragraph (a) of the definition of “insurance business” of the following paragraph:

“(a) the activities of a friendly society, unless such society employs a person whose main remunerated occupation consists of inducing persons to become members of the society, or of calling on members of the society at their residences or places of work for the purpose of collecting from them contributions or subscriptions towards the society’s funds, or unless such friendly society grants any annuity exceeding one hundred and forty-four rand per annum, or provides in respect of any member or other person for payments either on the death of such member or other person or in the form of an endowment or endowment insurance on the life of such member or other person, exceeding in all the sum of one thousand rand (exclusive of bonuses), at any time after the date of commencement of the Friendly Societies Act, 1956, and not in fulfilment of any obligations in existence before the said date;”;

- (f) by the insertion in the said subsection (1) after the definition of “motor business” of the following definition:

“‘mutual insurer’ means an insurer—

- (a) of whom all members—
  - (i) qualify as such by virtue only of their being owners of policies issued by the insurer; and
  - (ii) are entitled to participate in the exercise of control in general meeting of that insurer; and

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- (b) wie se winste slegs aan eienaars van polisse, uitgereik deur die versekeraar, uitkeerbaar is, ooreenkomstig die aktes ingevolge waarvan hy opgerig is en besigheid dryf.”; en
- (g) deur paragraaf (b)bis van subartikel (2) deur die volgende paragraaf te vervang:
- „(b)bis word goedgekeurde herversekerings in subparagraaf (iii) van paragraaf (a) van die omskrywing van ‚goedgekeurde herversekerings’ in subartikel (1) bedoel, nie geag die voorwaardelike verbintnisse ingevolge nog lopende polisse van die versekeraar wat die herversekerings aangegaan het, te dek vir ’n groter bedrag as die bedrag van die geld wat die herversekeraar in die Republiek by die versekeraar hou en waarop die versekeraar ’n eerste aanspraak en pandreg het as sekuriteit teen enige verliese wat weens versuim van die herversekeraar om sy verpligtings ingevolge die betrokke polis of kontrak na te kom, of ingeval bedoelde polis of kontrak om enige rede ten einde kom, mag ontstaan nie;”.

Invoeging van artikel 3quat in Wet 27 van 1943.

2. Die volgende artikel word hierby in die Versekeringswet, 1943, na artikel 3ter ingevoeg:

„Omskepping van buitelandse versekeraars tot binnelandse versekeraars.

3quat. (1) Enige buitelandse versekeraar wat onmiddellik voor die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, een of meer soorte versekeringsbesigheid wettig in die Republiek gedryf het, moet binne ’n tydperk van twee jaar na sodanige inwerkingtreding—

- (a) indien hy nie ’n onderlinge versekeraar is nie, ’n plan aan die registrateur voorlê vir die oordrag, binne die tydperk in die voorbehoudsbepaling by artikel 4 (3)ter vermeld, van sy versekeringsbesigheid wat hy in die Republiek dryf, aan een of meer binnelandse versekeraars; of
- (b) indien hy ’n onderlinge versekeraar is—
- (i) ’n plan voorlê ooreenkomstig die bepalings van paragraaf (a); of
- (ii) ’n aansoek aan die registrateur voorlê om die uitreiking van ’n sertifikaat ingevolge subartikel (3).

(2) Met ’n plan vermeld in paragraaf (a) of (b) (i) van subartikel (1) word gehandel asof dit ’n regshandeling is waarop subartikel (1) (b) van artikel 25 van toepassing is, ondanks andersluidende bepalings van daardie artikel.

(3) Op aansoek van ’n buitelandse versekeraar wat onmiddellik voor die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, wettig versekeringsbesigheid in die Republiek gedryf het en ’n onderlinge versekeraar is, kan die registrateur ’n sertifikaat uitreik dat sodanige versekeraar ’n binnelandse versekeraar geag word, mits sodanige buitelandse versekeraar die registrateur oortuig het dat—

- (a) hy sy versekeringsbesigheid in die Republiek dryf onder die bestuur van ’n plaaslike raad, waarvan—
- (i) die lidmaatskap nie minder as vier persone is nie; en
- (ii) die bevoegdhede die bevoegdheid insluit om te bepaal, behoudens die bepalings van



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- (b) whose profits are distributable only to owners of policies issued by the insurer, in accordance with the instruments under which he was constituted and carries on business.”; and
- (g) by the substitution for paragraph (b)*bis* of subsection (2) of the following paragraph:

“(b)*bis* approved reinsurances referred to in subparagraph (iii) of paragraph (a) of the definition of ‘approved reinsurances’ in subsection (1), shall not be deemed to cover the contingent liabilities under unmaturing policies of the insurer by whom such reinsurances have been effected, to an amount exceeding the amount of the moneys maintained in the Republic by the reinsurer with the insurer and on which the insurer has a prior charge and lien as security against losses which may be occasioned by the failure of the reinsurer to discharge his obligations under the relevant policy or contract or by the termination for any reason of such policy or contract;”.

2. The following section is hereby inserted in the Insurance Act, 1943, after section 3*ter*:

Insertion of section 3*quat* in Act 27 of 1943.

“Conversion of foreign insurers into domestic insurers.

3*quat*. (1) Any foreign insurer who immediately before the commencement of the Financial Institutions Amendment Act, 1976, was lawfully carrying on one or more classes of insurance business in the Republic, shall within a period of two years after such commencement—

- (a) if he is not a mutual insurer, submit a scheme to the registrar for the transfer of his insurance business which he carries on in the Republic to one or more domestic insurers within the period mentioned in the proviso to section 4 (3)*ter*; or
- (b) if he is a mutual insurer—
- (i) submit a scheme in accordance with the provisions of paragraph (a); or
  - (ii) submit an application to the registrar for the issue of a certificate in terms of subsection (3).

(2) A scheme mentioned in paragraph (a) or (b) (i) of subsection (1) shall be dealt with as if it were a transaction to which subsection (1) (b) of section 25 applies, notwithstanding anything to the contrary contained in that section.

(3) On application by a foreign insurer who immediately before the commencement of the Financial Institutions Amendment Act, 1976, was lawfully carrying on insurance business in the Republic and is a mutual insurer, the registrar may issue a certificate that such insurer is deemed to be a domestic insurer, if such foreign insurer has satisfied the registrar that—

- (a) he carries on his insurance business in the Republic under the management of a local board, of which—
- (i) the membership is not less than four persons; and
  - (ii) the powers include the power to determine, subject to the provisions of section 17, in

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artikel 17, op watter wyse die fondse wat deur die versekeraar in die Republiek besit word ten opsigte van die besigheid wat hy in die Republiek dryf, belê moet word;

- (b) hy aan die bepalings van artikel 17 voldoen;
- (c) op 'n waarderingsgrondslag wat vir die registrateur aanneemlik is, die verhouding waarin die waarde van die bates wat hy in die Republiek besit ten opsigte van die besigheid wat hy in die Republiek dryf tot die waarde van die verbintnisse ten opsigte van sodanige besigheid staan, nie kleiner is nie as dié waarin die waarde van die bates wat hy besit ten opsigte van die besigheid wat hy buite die Republiek dryf, tot die waarde van die verbintnisse ten opsigte van laasgenoemde besigheid staan, of kleiner is slegs in so 'n mate as wat billik is in die spesiale omstandighede wat betrekking het op die besigheid wat hy binne die Republiek dryf en wat hy buite die Republiek dryf; en
- (d) geen eienaars van polisse, behalwe eienaars van polisse wat 'n deel uitmaak van die besigheid wat hy in die Republiek dryf, en geen skuldeisers, behalwe skuldeisers ten opsigte van sodanige besigheid, enige aanspraak het op die bates wat hy ten opsigte van sodanige besigheid besit nie;

en mits die samestelling van die raad vermeld in paragraaf (a) aan die registrateur bekend gemaak is en die bevoegdhede daarvan deur hom goedgekeur is.

(4) Wanneer die registrateur 'n sertifikaat ingevolge subartikel (3) ten opsigte van 'n buitelandse versekeraar uitgereik het, dan, ondanks andersluitende bepalings van hierdie Wet of 'n ander wet—

- (a) word sodanige buitelandse versekeraar by die toepassing van hierdie Wet en vanaf 'n datum wat in dié sertifikaat genoem moet word, geag 'n binnelandse versekeraar te wees ten opsigte van die versekeringsbesigheid wat hy in die Republiek dryf;
- (b) wat betref die in paragraaf (a) van subartikel (3) vermelde raad—
  - (i) moet hy enige verandering in die raad se samestelling aan die registrateur openbaar; en
  - (ii) kan hy nie die raad se bevoegdhede verander sonder goedkeuring van die registrateur nie;
- (c) word hy wat betref sy versekeringsbesigheid in die Republiek by die toepassing van hierdie Wet geag 'n regspersoon te wees;
- (d) het hy wat sodanige besigheid betref dieselfde bevoegdheid om onroerende goed in die Republiek te verkry en te besit asof hy 'n maatskappy is wat in die Republiek geïnkorporeer is; en
- (e) mag die versekeraar nie, tensy—
  - (i) die bepalings van artikel 17 nagekom word;
  - (ii) voldoen word aan die vereistes van paragraaf (c) van subartikel (3); en
  - (iii) die skriftelike goedkeuring van die waardeerder, die plaaslike raad vermeld in paragraaf (a) van subartikel (3) en die registrateur verkry is,
 van die bates wat hy in die Republiek besit ten opsigte van die versekeringsbesigheid wat hy in die Republiek dryf, aan ander besigheid wat hy dryf, oordra nie.”.

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what manner the funds held by the insurer in the Republic in respect of the business which he carries on in the Republic shall be invested;

- (b) he complies with the provisions of section 17;
- (c) on a basis of valuation that is acceptable to the registrar, the proportion which the value of the assets which he holds in the Republic in respect of the business which he carries on in the Republic bears to the value of the liabilities in respect of such business, is not less than that which the value of the assets which he holds in respect of the business which he carries on outside the Republic bears to the value of the liabilities in respect of the last-mentioned business or is less to such extent only as is equitable in the special circumstances that pertain to the business that he carries on inside the Republic and that he carries on outside the Republic; and
- (d) no owners of policies other than owners of policies forming part of the business carried on by him in the Republic, and no creditors other than creditors in respect of such business have any claim to the assets held by him in respect of such business;

and if the constitution of the board mentioned in paragraph (a) has been made known to the registrar and its powers have been approved by him.

(4) When the registrar has issued a certificate in terms of subsection (3) in respect of any foreign insurer, then, notwithstanding anything to the contrary contained in this Act or any other law, such foreign insurer—

- (a) shall for the purposes of this Act and from a date to be stated in such certificate, be deemed to be a domestic insurer in respect of the insurance business carried on by him in the Republic;
- (b) as regards the local board mentioned in paragraph (a) of subsection (3)—
  - (i) shall disclose any change in its constitution to the registrar; and
  - (ii) may not change its powers without the approval of the registrar;
- (c) shall as regards his insurance business in the Republic be deemed to be a juristic person for the purposes of this Act;
- (d) shall as regards such business have the same power to acquire and to own immovable property in the Republic as if he were a company incorporated in the Republic; and
- (e) may not, unless—
  - (i) the provisions of section 17 are complied with;
  - (ii) the requirements of paragraph (c) of subsection (3) are observed; and
  - (iii) the approval in writing of the valuator, the local board mentioned in paragraph (a) of subsection (3), and the registrar has been obtained,

transfer any of the assets which he holds in the Republic in respect of the insurance business which he carries on in the Republic to any other business which he carries on.”

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Wysiging van artikel 4 van Wet 27 van 1943, soos gewysig deur artikel 1 van Wet 19 van 1945, artikel 3 van Wet 73 van 1951, artikel 4 van Wet 79 van 1959, artikel 10 van Wet 64 van 1960, artikel 3 van Wet 10 van 1965 en artikel 2 van Wet 39 van 1969.

3. Artikel 4 van die Versekeringwet, 1943, word hierby gewysig deur subartikel (3)ter deur die volgende subartikel te vervang:

„(3)ter Ondanks die bepalings van paragraaf (a) of (b) van subartikel (3)bis, word 'n geregistreerde versekeraar wat 'n buitelandse versekeraar is binne die bedoeling van daardie uitdrukking soos in artikel 1 (1) omskryf, en wat onmiddellik voor die inwerkingtreding van die Wysigingswet op Versekering, 1965, enige soort versekeringsbesigheid in die Republiek gedryf het ten opsigte waarvan hy geregistreer was, geag behoorlik ingevolge hierdie Wet geregistreer te wees as 'n buitelandse versekeraar wat gemagtig is om die besigheid te dryf ten opsigte waarvan hy aldus geregistreer is: Met dien verstande dat na verloop van 'n tydperk van drie jaar na die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, of die langer tydperk wat die registrateur ten opsigte van 'n bepaalde versekeraar mag bepaal, so 'n versekeraar nie langer geag word aldus geregistreer te wees nie.”.

Wysiging van artikel 13 van Wet 27 van 1943, soos vervang deur artikel 11 van Wet 73 van 1951 en gewysig deur artikel 10 van Wet 10 van 1965 en artikel 2 van van Wet 41 van 1966.

4. Artikel 13 van die Versekeringwet, 1943, word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

„(a) Die opgawe moet onder meer insluit—

(i) die bedrag van voorwaardelike verbintenisse van die betrokke versekeraar kragtens nog lopende polisse, bereken ooreenkomstig die bepalings van die Tweede Bylae van hierdie Wet;

(ii) die bedrag, soos beraam deur die versekeraar, van sy verbintenisse ten opsigte van vorderings kragtens polisse wat voor die datum van verstryking van die in artikel 12 bedoelde boekjaar aan die versekeraar of 'n agent van die versekeraar bekend gemaak was, maar nie voor dié datum deur die versekeraar betaal was nie, en soos deur die registrateur goedgekeur wat betref korttermyn-versekeringsbesigheid of, by ontstentenis van sodanige goedkeuring, soos beraam deur die registrateur wat sodanige besigheid betref;

(iiA) as die versekeraar enige korttermyn-versekeringsbesigheid gedryf het, die bedrag, soos beraam deur die versekeraar, van sy verbintenisse met betrekking tot vorderings kragtens polisse uitgereik ten opsigte van sodanige besigheid wat ontstaan het maar nie aan die versekeraar of 'n agent van die versekeraar bekendgemaak was nie voor die datum vermeld in subparagraaf (ii), en soos deur die registrateur goedgekeur of, by ontstentenis van sodanige goedkeuring, soos beraam deur die registrateur;

(iii) die bedrag van 'n verbintenis ten opsigte van inkomstebelasting of ander belastings vir die betrokke jaar en vir vorige jare, en, indien so 'n belasting nog nie finaal aangeslaan is nie, 'n beraming van die bedrag van sodanige belastings.”.

Wysiging van artikel 15 van Wet 27 van 1943, soos vervang deur artikel 13 van Wet 73 van 1951 en gewysig deur artikel 10 van Wet 79 van 1959, artikel 11 van Wet 10 van 1965 en artikel 3 van Wet 41 van 1966.

5. Artikel 15 van die Versekeringwet, 1943, word hierby gewysig—

(a) deur paragraaf (f) deur die volgende paragraaf te vervang:

„(f) Elke bate van 'n in paragraaf 3, 4, 4A, 5, 6 of 6A van die Derde Bylae by hierdie Wet vermeldde soort wat 'n geregistreerde versekeraar ten opsigte van langtermyn-versekeringsbesigheid besit, moet aangegee word teen 'n bedrag wat die

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3. Section 4 of the Insurance Act, 1943, is hereby amended by the substitution for subsection (3)*ter* of the following subsection:

“(3)*ter* Notwithstanding the provisions of paragraph (a) or (b) of subsection (3)*bis*, any registered insurer who is a foreign insurer within the meaning of that term as defined in section 1 (1), and who immediately prior to the commencement of the Insurance Amendment Act, 1965, was carrying on in the Republic any class of insurance business in respect of which he was registered, shall be deemed to be duly registered in terms of this Act as a foreign insurer authorized to carry on the business in respect of which he was so registered: Provided that after the expiry of a period of three years after the commencement of the Financial Institutions Amendment Act, 1976, or such longer period as the registrar may in respect of a particular insurer determine, such insurer shall no longer be deemed to be so registered.”

Amendment of section 4 of Act 27 of 1943, as amended by section 1 of Act 19 of 1945, section 3 of Act 73 of 1951, section 4 of Act 79 of 1959, section 10 of Act 64 of 1960, section 3 of Act 10 of 1965 and section 2 of Act 39 of 1969.

4. Section 13 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) The statement shall *inter alia* include—

(i) the amount of the contingent liabilities of the insurer concerned under unmaturing policies, calculated in accordance with the provisions of the Second Schedule to this Act;

(ii) the amount, as estimated by the insurer, of his liabilities in respect of claims under policies which had been intimated to the insurer or to any agent of the insurer but which had not been paid by the insurer prior to the date of termination of the financial year referred to in section 12, and as approved by the registrar as far as short-term insurance business is concerned or, in the absence of such approval, as estimated by the registrar as far as such business is concerned;

(iiA) if the insurer carried on any short-term insurance business, the amount, as estimated by the insurer, of his liabilities relating to claims under policies issued in respect of such business which had arisen but not been intimated to the insurer or any agent of the insurer prior to the date referred to in subparagraph (ii), and as approved by the registrar or, in the absence of such approval, as estimated by the registrar;

(iii) the amount of any liability in respect of income tax or other taxes for the year concerned and for preceding years, and, if any such tax has not been finally assessed, the estimated amount in respect of such taxes.”

Amendment of section 13 of Act 27 of 1943, as substituted by section 11 of Act 73 of 1951 and amended by section 10 of Act 10 of 1965 and section 2 of Act 41 of 1966.

5. Section 15 of the Insurance Act, 1943, is hereby amended—

(a) by the substitution for paragraph (f) of the following paragraph:

“(f) Every asset which a registered insurer holds in respect of long-term insurance business and which is of a kind specified in paragraph 3, 4, 4A, 5, 6 or 6A of the Third Schedule to this Act shall be

Amendment of section 15 of Act 27 of 1943, as substituted by section 13 of Act 73 of 1951 and amended by section 10 of Act 79 of 1959, section 11 of Act 10 of 1965 and section 3 of Act 41 of 1966.

kleinste van ondervermelde twee bedrae nie te bowe gaan nie, te wete—

- (i) die koste vir die betrokke versekeraar van die verkryging van die bate, na aftrekking van die bedrag aan enige verskuldigde of opgelope rente wat by bedoelde koste ingesluit is, en nadat ten opsigte van makelaarsloon, seëlregte en onderskrywingskommissie, die verkenings (as daar is) gedoen is wat vereis word volgens die boekhoumetodes wat gewoonlik deur die betrokke versekeraar toegepas word; of
- (ii) die bedrag aan kapitaal wat by aflossing betaalbaar is (hetsy in een bedrag of paaielementsgewys):

Met dien verstande dat waar die bedrag kragtens subparagraaf (i) bereken, van die in subparagraaf (ii) bedoelde bedrag verskil, die betrokke versekeraar die bate kan aangee teen 'n bedrag wat bereken is volgens 'n metode van jaarlikse verkenings deur die registrateur goedgekeur: Met dien verstande voorts dat daar by die bedrag wat volgens die voorafgaande bepalinge bereken is, die bedrag aan enige rente wat op die datum waarop die opgawe betrekking het, verskuldig is of opgeloop het, gevoeg kan word.”;

- (b) deur na paragraaf (f) die volgende paragraaf in te voeg:

„(fA) 'n Bate wat—

- (i) 'n geregistreerde versekeraar ten opsigte van langtermyn-versekeringsbesigheid besit;
- (ii) nie van 'n in paragraaf (b) of 'n in paragraaf 3, 4, 4A, 5, 6 of 6A van die Derde Bylae by hierdie Wet vermelde soort is nie; en
- (iii) rentedraend is en nie later as 'n bepaalde datum aflosbaar is nie,

moet aangegee word teen 'n bedrag wat op dieselfde wyse as dié voorgeskryf in paragraaf (f) bepaal word: Met dien verstande dat as die registrateur van mening is dat die bate nie teen sodanige bedrag aangegee moet word nie, dit teen 'n bedrag soos bepaal ooreenkomstig paragraaf (g) of (h), welke ook al van toepassing is op die besondere bate, aangegee moet word.”;

- (c) deur in paragraaf (g), na die uitdrukking „paragraaf (f)”, die woorde „of paragraaf (fA)” in te voeg; en
- (d) deur paragraaf (h) deur die volgende paragraaf te vervang:

„(h) Elke bate waarop die bepalinge van die voorafgaande paragrawe nie van toepassing is nie, word gewaardeer teen 'n bedrag hoogstens gelyk aan die prys wat by 'n verkoping in die Republiek tussen 'n gewillige koper en 'n gewillige verkoper (tussen wie daar geen ander regstreekse of onregstreekse verband bestaan nie) verkry sou word, soos deur die versekeraar beraam en deur die registrateur goedgekeur, of, indien die registrateur nie 'n beraming deur die versekeraar gemaak, goedkeur nie, soos deur die registrateur beraam.”.

Wysiging van artikel 17 van Wet 27 van 1943, soos vervang deur artikel 12 van Wet 10 van 1965

6. Artikel 17 van die Versekeringswet, 1943, word hierby gewysig—

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

„(2) (a) Die in subartikel (1) (b) bedoelde bates

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shown at an amount which does not exceed the lesser of the two amounts stated below, namely—

(i) the cost to the insurer concerned of acquiring the asset, after deducting the amount of any interest due or accrued which was included in such cost, and after making such adjustments (if any) in respect of brokerage, stamp duty and underwriting commission as may be required by the methods of bookkeeping habitually applied by the insurer concerned; or

(ii) the amount of capital payable on redemption (whether in one sum or by instalments):

Provided that where the amount arrived at in terms of subparagraph (i) differs from the amount referred to in subparagraph (ii), the insurer concerned may show the asset at an amount which has been arrived at by a method of annual adjustments approved by the registrar: Provided further that to the amount determined in accordance with the foregoing provisions there may be added the amount of any interest due or accrued at the date to which the statements relate.”;

(b) by the insertion after paragraph (f) of the following paragraph:

“(fA) Every asset which—

(i) a registered insurer holds in respect of long-term insurance business;

(ii) is not of a kind specified in paragraph (b) or in paragraph 3, 4, 4A, 5, 6 or 6A of the Third Schedule to this Act; and

(iii) is interest-bearing and redeemable not later than at a fixed date,

shall be shown at an amount which is determined in the same manner as that prescribed in paragraph (f): Provided that if the registrar is of opinion that the asset should not be shown at such amount, it shall be shown at an amount as determined in accordance with paragraph (g) or (h), whichever is applicable to the particular asset.”;

(c) by the insertion in paragraph (g), after the expression “paragraph (f)”, of the words “or paragraph (fA)”; and

(d) by the substitution for paragraph (h) of the following paragraph:

“(h) Every asset to which the provisions of the preceding paragraphs do not apply shall be valued at an amount not exceeding the price which would be obtained on a sale in the Republic between a willing seller and a willing purchaser (between whom there is no other direct or indirect connection), as estimated by the insurer and approved by the registrar or, if the registrar does not approve of an estimate made by the insurer, as estimated by the registrar.”.

6. Section 17 of the Insurance Act, 1943, is hereby amended—

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

“(2) (a) The assets referred to in subsection (1) (b)

Amendment of section 17 of Act 27 of 1943, as substituted by section 12 of Act 10 of 1965 and amended by

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en gewysig deur  
artikel 4 van  
Wet 41 van 1966  
en artikel 2 van  
Wet 91 van 1972.

moet, behoudens die bepalings van subartikels (2A) en (3) bates van die in Deel I van die Derde Bylae vermelde soorte insluit met 'n gesamentlike waarde gelyk aan minstens—

- (i) dertig persent van die bedrag van die in subartikel (1) (b) bedoelde netto verbintenisse met uitsluiting van sodanige netto verbintenisse ten opsigte van langtermyn-versekeringsbesigheid wat met pensioenfondse en uittredingannuïteitsfondse gedryf word; en
  - (ii) vyftig persent van die bedrag van die bedoelde netto verbintenisse ten opsigte van langtermyn-versekeringsbesigheid wat met pensioenfondse en uittredingannuïteitsfondse gedryf word.
- (b) Die in paragraaf (a) laasbedoelde bates moet, behoudens die bepalings van subartikels (2A) en (3), wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek insluit met 'n gesamentlike waarde van minstens—
- (i) vyftien persent van die bedrag van die bedoelde netto verbintenisse, met uitsluiting van sodanige netto verbintenisse ten opsigte van langtermyn-versekeringsbesigheid wat met pensioenfondse en uittredingannuïteitsfondse gedryf word; en
  - (ii) twintig persent van die bedrag van die bedoelde netto verbintenisse ten opsigte van langtermyn-versekeringsbesigheid wat met pensioenfondse en uittredingannuïteitsfondse gedryf word.”;
- (b) deur na subartikel (2) die volgende subartikel in te voeg:
- „(2A) Vir die doeleindes van die berekening van verbintenisse kragtens nog lopende polisse vir die doeleindes van die berekening van die bedrag van die netto verbintenisse vermeld in subartikel (2), kan die Minister by regulasie 'n ander veronderstelde rentekoers voorskryf as dié wat ingevolge paragraaf (c) van artikel 4 van die Tweede Bylae by hierdie Wet voorgeskryf is, en indien hy so 'n ander veronderstelde rentekoers voorskryf, kan hy by regulasie die betrokke versekeraar verplig om die state aan die registrateur voor te lê wat nodig geag word om aan te toon hoe sy netto verbintenisse bereken is vir die doeleindes van genoemde subartikel (2), en die vorm van sodanige state voorskryf.”;
- (c) deur die volgende voorbehoudsbepaling by subartikel (3) te voeg:
- „Met dien verstande dat hierdie subartikel nie van toepassing is nie indien 'n ander veronderstelde rentekoers as dié wat voorgeskryf is ingevolge paragraaf (c) van artikel 4 van die Tweede Bylae by hierdie Wet ingevolge subartikel (2A) voorgeskryf is.”;
- (d) deur subartikel (4) deur die volgende subartikel te vervang:
- „(4) 'n Binnelandse versekeraar wat korttermyn-versekeringsbesigheid dryf, moet ten opsigte van sodanige besigheid—
- (a) bates besit met 'n gesamentlike waarde minstens gelyk aan die bedrag van sy netto verbintenisse ten opsigte van daardie besigheid, plus 'n by-



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shall, subject to the provisions of subsections (2A) and (3), include assets of the kinds mentioned in Part I of the Third Schedule having an aggregate value not less than—

section 4 of Act 41 of 1966 and section 2 of Act 91 of 1972.

- (i) thirty per cent of the amount of the net liabilities referred to in subsection (1) (b), excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and
  - (ii) fifty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds.
- (b) The assets last-mentioned in paragraph (a) shall, subject to the provisions of subsections (2A) and (3), include bills, bonds or securities issued by or loans to the Government of the Republic having an aggregate value not less than—
- (i) fifteen per cent of the amount of the said net liabilities, excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and
  - (ii) twenty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds.”;

- (b) by the insertion after subsection (2) of the following subsection:

“(2A) For the purposes of calculating the amount of any liabilities under unmatured policies for the purpose of calculating the amount of the net liabilities referred to in subsection (2), the Minister may by regulation prescribe any other assumed rate of interest than that prescribed in terms of paragraph (c) of section 4 of the Second Schedule to this Act, and may, if he prescribes such other assumed rate of interest, by regulation require the insurer concerned to submit such statements to the registrar as may be deemed necessary to indicate how the amount of his net liabilities has been calculated for the purposes of the said subsection (2) and prescribe the form of such statements.”;

- (c) by the addition to subsection (3) of the following proviso:

“Provided that this subsection shall not apply if any other assumed rate of interest than that prescribed in terms of paragraph (c) of section 4 of the Second Schedule to this Act has been prescribed in terms of subsection (2A).”;

- (d) by the substitution for subsection (4) of the following subsection:

“(4) A domestic insurer who carries on short-term insurance business shall in respect of such business—

- (a) hold assets having an aggregate value not less than the amount of his net liabilities in respect of

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komende bedrag gelyk aan die grootste van die volgende bedrae, te wete—

- (i) tweehonderdduisend rand; of
  - (ii) tien persent of sodanige ander persentasie as wat van tyd tot tyd by regulasie voorgeskrif word van die grootste van die volgende bedrae, te wete—
    - (aa) sy inkomste uit premies (na aftrekking van goedgekeurde herversekerings) in die vorige boekjaar; of
    - (bb) sy inkomste uit premies (na aftrekking van goedgekeurde herversekerings) in die verstreke gedeelte van die huidige boekjaar;
- (b) in die Republiek bates van een of meer van die in die Derde Bylae by hierdie Wet vermelde soorte besit met 'n gesamentlike waarde minstens gelyk aan die bedrag van sy netto verbintnisse ten opsigte van sodanige besigheid deur hom in die Republiek gedryf, plus 'n bykomende bedrag gelyk aan die grootste van die volgende bedrae, te wete—
- (i) tweehonderdduisend rand; of
  - (ii) tien persent of sodanige ander persentasie as wat van tyd tot tyd by regulasie voorgeskrif word van die grootste van die volgende bedrae, te wete—
    - (aa) sy inkomste uit premies (na aftrekking van goedgekeurde herversekerings) ten opsigte van sodanige besigheid gedurende die vorige boekjaar deur hom in die Republiek gedryf; of
    - (bb) sy inkomste uit premies (na aftrekking van goedgekeurde herversekerings) ten opsigte van die voormelde besigheid in die verstreke gedeelte van die huidige boekjaar.”;
- (e) deur paragraaf (a) van subartikel (5) deur die volgende paragraaf te vervang:
- „(a) Die bates wat ingevolge paragraaf (b) van subartikel (4) besit moet word, sluit bates in van die soorte in Deel I van die Derde Bylae vermeld met 'n gesamentlike waarde gelyk aan minstens dertig persent van die gesamentlike waarde van eersgenoemde bates.”;
- (f) deur paragraaf (b) van genoemde subartikel (5) te skrap;
- (g) deur paragraaf (c) van genoemde subartikel (5) deur die volgende paragraaf te vervang:
- „(c) Die bates van die in Deel I van die Derde Bylae vermelde soorte wat ingevolge paragraaf (a) besit moet word, moet wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek insluit met 'n gesamentlike waarde van minstens vyftien persent van die gesamentlike waarde van die bates wat ingevolge paragraaf (b) van subartikel (4) besit moet word.”;

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such business, plus an additional amount equal to the greater of the following amounts, namely—

- (i) two hundred thousand rand; or
  - (ii) ten per cent or such other percentage as may from time to time be prescribed by regulation of the greater of the following amounts, namely—
    - (aa) his premium income (after deduction of approved reinsurances) in the previous financial year; or
    - (bb) his premium income (after deduction of approved reinsurances) in the expired portion of the current financial year;
- (b) hold in the Republic assets of one or more of the kinds mentioned in the Third Schedule to this Act having an aggregate value not less than the amount of his net liabilities in respect of such business carried on by him in the Republic, plus an additional amount equal to the greater of the following amounts, namely—
- (i) two hundred thousand rand; or
  - (ii) ten per cent or such other percentage as may from time to time be prescribed by regulation of the greater of the following amounts, namely—
    - (aa) his premium income (after deduction of approved reinsurances) in respect of such business carried on by him in the Republic in the previous financial year; or
    - (bb) his premium income (after deduction of approved reinsurances) in respect of the aforementioned business in the expired portion of the current financial year.”;
- (e) by the substitution for paragraph (a) of subsection (5) of the following paragraph:
- “(a) The assets required to be held in terms of paragraph (b) of subsection (4) shall include assets of the kinds mentioned in Part I of the Third Schedule having an aggregate value not less than thirty per cent of the aggregate value of the first-mentioned assets.”;
- (f) by the deletion of paragraph (b) of the said subsection (5);
- (g) by the substitution for paragraph (c) of the said subsection (5) of the following paragraph:
- “(c) The assets of the kinds mentioned in Part I of the Third Schedule and required to be held in terms of paragraph (a), shall include bills, bonds or securities issued by or loans to the Government of the Republic having an aggregate value not less than fifteen per cent of the aggregate value of the assets required to be held in terms of paragraph (b) of subsection (4).”;

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(h) deur na genoemde subartikel (5) die volgende subartikels in te voeg:

„(5A) By die toepassing van subartikels (2) en (5) word, met ingang van 26 Junie 1974, geag dat van die waarde van 'n binnelandse versekeraar se besit aan onderaandele in 'n effekte-trustskema bedoel in paragraaf 11 van Deel II van die Derde Bylae, bedrae gelykstaande met sodanige persentasies, indien daar is, as wat die registrateur van tyd tot tyd mag bepaal, besit word in—

(a) bates van die in Deel I van die Derde Bylae bedoelde soorte; en

(b) wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek.

(5B) 'n Regulasie kragtens paragraaf (a) (ii) of (b) (ii) van subartikel (4) uitgevaardig wat 'n persentasie voorskryf wat hoër is as wat van krag is by die inwerkingtreding van sodanige regulasie, skryf ook die wyse voor waarop 'n binnelandse versekeraar wat onmiddellik na sodanige inwerkingtreding nie aan die voorskrifte van subartikel (4) of (5) voldoen nie, daaraan moet voldoen.”; en

(i) deur subartikel (6) deur die volgende subartikel te vervang:

„(6) Die bepalings van subartikels (4), (5), (5A) en (5B) is *mutatis mutandis* van toepassing op elke binnelandse versekeraar ten opsigte van sy verpligte derdeparty-versekeringsbesigheid.”

Wysiging van artikel 18 van Wet 27 van 1943, soos vervang deur artikel 13 van Wet 10 van 1965 en gewysig deur artikel 5 van Wet 41 van 1966 en artikel 3 van Wet 91 van 1972.

7. Artikel 18 van die Versekeringswet, 1943, word hierby gewysig—

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

„(b) Die in paragraaf (a) laasbedoelde bates moet wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek insluit met 'n gesamentlike waarde van minstens—

(i) vyftien persent van die bedrag van die bedoelde netto verbintnisse, met uitsluiting van sodanige netto verbintnisse ten opsigte van langtermyn-versekeringsbesigheid wat met pensioenfondse en uitredingannuïteitsfondse gedryf word; en

(ii) twintig persent van die bedrag van die bedoelde netto verbintnisse ten opsigte van langtermyn-versekeringsbesigheid wat met pensioenfondse en uitredingannuïteitsfondse gedryf word.”;

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

„(3) Die bepalings van subartikels (2A) en (3) van artikel 17 is *mutatis mutandis* op elke buitelandse versekeraar van toepassing.”;

(c) deur subartikel (4) deur die volgende subartikel te vervang:

„(4) Elke buitelandse versekeraar wat korttermyn-versekeringsbesigheid in die Republiek dryf, moet ten opsigte van daardie besigheid bates in die Republiek besit van een of meer van die soorte in die Derde Bylae vermeld, met 'n gesamentlike waarde gelyk aan minstens die bedrag van sy netto verbintnisse ten opsigte

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- (h) by the insertion after the said subsection (5) of the following subsections:

“(5A) For the purposes of subsections (2) and (5) it shall, with effect from 26 June 1974, be deemed that of the value of a domestic insurer's holding of units in a unit trust scheme mentioned in paragraph 11 of Part II of the Third Schedule, amounts equal to such percentages, if any, as the registrar may from time to time determine, are held in—

- (a) assets of the classes mentioned in Part I of the Third Schedule; and  
(b) bills, bonds or securities issued by or loans to the Government of the Republic.

(5B) Any regulation made under paragraph (a) (ii) or (b) (ii) of subsection (4) which prescribes a percentage that is higher than that in force at the commencement of such regulation, shall also prescribe the manner in which a domestic insurer who immediately after such commencement does not comply with the provisions of subsection (4) or (5) shall comply therewith.”; and

- (i) by the substitution for subsection (6) of the following subsection:

“(6) The provisions of subsections (4), (5), (5A) and (5B) shall *mutatis mutandis* apply to every domestic insurer in respect of his compulsory third party insurance business.”.

7. Section 18 of the Insurance Act, 1943, is hereby amended—

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

“(b) The assets last-mentioned in paragraph (a) shall include bills, bonds or securities issued by or loans to the Government of the Republic having an aggregate value not less than—

- (i) fifteen per cent of the amount of the said net liabilities, excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and  
(ii) twenty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds.”;

Amendment of section 18 of Act 27 of 1943, as substituted by section 13 of Act 10 of 1965 and amended by section 5 of Act 41 of 1966 and section 3 of Act 91 of 1972.

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

“(3) The provisions of subsections (2A) and (3) of section 17 shall *mutatis mutandis* apply to every foreign insurer.”;

- (c) by the substitution for subsection (4) of the following subsection:

“(4) Every foreign insurer who carries on short-term insurance business in the Republic shall in respect of such business hold assets in the Republic of one or more of the kinds mentioned in the Third Schedule having an aggregate value not less than the amount of

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van sodanige besigheid deur hom in die Republiek gedryf, plus 'n bykomende bedrag gelyk aan die grootste van die volgende bedrae, te wete—

- (a) tweehonderdduisend rand; of
- (b) tien persent of sodanige ander persentasie as wat van tyd tot tyd by regulasie voorgeskryf word van die grootste van die volgende bedrae, te wete—
  - (i) sy inkomste uit premies (na aftrekking van goedgekeurde herversekering) ten opsigte van sodanige besigheid gedurende die vorige boekjaar deur hom in die Republiek gedryf; of
  - (ii) sy inkomste uit premies (na aftrekking van goedgekeurde herversekering) ten opsigte van voormelde besigheid in die verstreke gedeelte van die huidige boekjaar.”;

(d) deur paragraaf (a) van subartikel (5) deur die volgende paragraaf te vervang:

„(a) Die bates wat ingevolge subartikel (4) besit moet word, moet bates insluit van die soorte in Deel I van die Derde Bylae vermeld, met 'n gesamentlike waarde minstens gelyk aan dertig persent van die gesamentlike waarde van eersgenoemde bates.”;

(e) deur paragraaf (b) van genoemde subartikel (5) te skrap;

(f) deur paragraaf (c) van genoemde subartikel (5) deur die volgende paragraaf te vervang:

„(c) Die bates van die in Deel I van die Derde Bylae vermelde soorte wat ingevolge paragraaf (a) besit moet word, moet wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek insluit met 'n gesamentlike waarde van minstens vyftien persent van die gesamentlike waarde van die bates wat ingevolge subartikel (4) besit moet word.”;

(g) deur na genoemde subartikel (5) die volgende subartikels in te voeg:

„(5A) By die toepassing van subartikels (2) en (5) word, met ingang van 26 Junie 1974, geag dat van die waarde van 'n buitelandse versekeraar se besit aan onderaandele in 'n effeketrustskema bedoel in paragraaf 11 van Deel II van die Derde Bylae, bedrae gelykstaande met sodanige persentasies, indien daar is, as wat die registrateur van tyd tot tyd mag bepaal, besit word in—

(a) bates van die in Deel I van die Derde Bylae bedoelde soorte; en

(b) wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek.

(5B) 'n Regulasie kragtens paragraaf (b) van subartikel (4) uitgevaardig wat 'n persentasie voorskryf wat hoër is as wat van krag is by die inwerkingtreding van sodanige regulasie, skryf ook die wyse voor waarop 'n buitelandse versekeraar wat onmiddellik na sodanige

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his net liabilities in respect of such business carried on by him in the Republic, plus an additional amount equal to the greater of the following amounts, namely—

- (a) two hundred thousand rand; or
- (b) ten percent or such other percentage as may from time to time be prescribed by regulation of the greater of the following amounts, namely—
  - (i) his premium income (after deduction of approved reinsurances) in respect of such business carried on by him in the Republic in the previous financial year; or
  - (ii) his premium income (after deduction of approved reinsurances) in respect of the aforementioned business in the expired portion of the current financial year.”;
- (d) by the substitution for paragraph (a) of subsection (5) of the following paragraph:
  - “(a) The assets required to be held in terms of subsection (4) shall include assets of the kinds mentioned in Part I of the Third Schedule having an aggregate value not less than thirty per cent of the aggregate value of the first-mentioned assets.”;
- (e) by the deletion of paragraph (b) of the said subsection (5);
- (f) by the substitution for paragraph (c) of the said subsection (5) of the following paragraph:
  - “(c) The assets of the kinds mentioned in Part I of the Third Schedule and required to be held in terms of paragraph (a), shall include bills, bonds or securities issued by or loans to the Government of the Republic having an aggregate value not less than fifteen per cent of the aggregate value of the assets required to be held in terms of subsection (4).”;
- (g) by the insertion after the said subsection (5) of the following subsections:

“(5A) For the purposes of subsections (2) and (5) it shall, with effect from 26 June 1974, be deemed that of the value of a foreign insurer's holding of units in a unit trust scheme mentioned in paragraph 11 of Part II of the Third Schedule, amounts equal to such percentages, if any, as the registrar may from time to time determine, are held in—

- (a) assets of the classes mentioned in Part I of the Third Schedule; and
- (b) bills, bonds or securities issued by or loans to the Government of the Republic.

(5B) Any regulation made under paragraph (b) of subsection (4) which prescribes a percentage that is higher than that in force at the commencement of such regulation, shall also prescribe the manner in which a foreign insurer who immediately after such com-

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inwerkingtreding nie aan die voorskrifte van subartikel (4) of (5) voldoen nie, daaraan moet voldoen.”; en

(h) deur subartikel (6) deur die volgende subartikel te vervang:

„(6) Die bepalings van subartikels (4), (5), (5A) en (5B) is *mutatis mutandis* van toepassing op elke buitelandse versekeraar ten opsigte van sy verpligte derdeparty-versekeringsbesigheid.”.

Wysiging van artikel 18bis van Wet 27 van 1943, soos vervang deur artikel 4 van Wet 91 van 1972.

8. Artikel 18bis van die Versekeringswet, 1943, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

„(2) 'n Geregistreerde versekeraar wat op die datum van inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1972, nie bates in die vorm van wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek met die ingevolge artikel 17 of 18, na gelang van die geval, voorgeskrewe gesamentlike waarde besit het nie, moet, tot tyd en wyl hy bates in daardie vorm met die aldus voorgeskrewe gesamentlike waarde besit, aan die end van elke boekjaar bates in bedoelde vorm besit met 'n gesamentlike waarde van minstens—

(a) die ingevolge artikel 17 of 18, na gelang van die geval, voorgeskrewe gesamentlike waarde, min

(b) die bedrag wat in dieselfde verhouding staan tot die bedrag waarmee die gesamentlike waarde van die bates in bedoelde vorm wat die versekeraar op 30 September 1971 sou moes besit het indien die Wysigingswet op Finansiële Instellings, 1972, toe van toepassing sou gewees het, die gesamentlike waarde van die bates in bedoelde vorm wat die versekeraar op daardie datum besit het, oorskry, as dié waarin die tydperk vanaf die einde van die betrokke boekjaar tot die einde van 'n tydperk van tien jaar wat strek vanaf die begin van die boekjaar waarin bedoelde datum van inwerkingtreding val, tot 'n tydperk van tien jaar staan.”.

Wysiging van artikel 21 van Wet 27 van 1943, soos vervang deur artikel 19 van Wet 73 van 1951 en gewysig deur artikel 13 van Wet 79 van 1959, artikel 18 van Wet 10 van 1965 en artikel 1 van Wet 75 van 1970.

9. Artikel 21 van die Versekeringswet, 1943, word hierby gewysig deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:

„(f) 'n bate bestaande uit wissels, skuldbriewe of effekte uitgereik deur die regering van of 'n plaaslike bestuur in 'n ander gebied as die Republiek wat deur die registrateur goedgekeur is ingevolge paragraaf 6A van die Derde Bylae by hierdie Wet of dié uitgereik deur 'n instelling in so 'n goedgekeurde gebied wat die registrateur insgelyks goedgekeur het, indien die betrokke wissels, skuldbriewe of effekte in die Republiek is.”.

Invoeging van artikel 23A in Wet 27 van 1943.

10. Die volgende artikel word hierby in die Versekeringswet, 1943, na artikel 23 ingevoeg:

„Teenprestasie vir sekere dienste kan verbied of beperk word. 23A. (1) Die Minister kan regulasies uitvaardig whereby 'n verbod ingestel word op die oorgaan of aanbod van 'n teenprestasie, of 'n beperking geplaas word op die teenprestasie wat mag oorgaan of aangebied mag word, van of deur of ten behoeve van 'n geregistreerde versekeraar of 'n versekeraar van Lloyds na of aan 'n persoon as vergoeding vir dienste wat deur hom gelewer is of gelewer moet word tot die aangaan, instandhouding of versorging van 'n polis, of na of aan 'n persoon wat sakebetrekkinge



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mencement does not comply with the provisions of subsection (4) or (5) shall comply therewith.”; and

- (h) by the substitution for subsection (6) of the following subsection:

“(6) The provisions of subsections 4, (5), (5A) and (5B) shall *mutatis mutandis* apply to every foreign insurer in respect of his compulsory third party insurance business.”.

8. Section 18*bis* of the Insurance Act, 1943, is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 18*bis* of Act 27 of 1943, as substituted by section 4 of Act 91 of 1972.

“(2) Any registered insurer who at the date of commencement of the Financial Institutions Amendment Act, 1972, did not hold assets in the form of bills, bonds or securities issued by or loans to the Government of the Republic to the aggregate value prescribed by section 17 or 18, as the case may be, shall, until he holds assets in that form having the aggregate value so prescribed, hold at the end of each financial year, assets in such form having an aggregate value not less than—

- (a) the aggregate value prescribed by section 17 or 18, as the case may be, less
- (b) the amount which bears the same ratio to the amount by which the aggregate value of assets in such form which the insurer would have been required to hold on 30 September 1971, had the Financial Institutions Amendment Act, 1972, been then applicable, exceeds the aggregate value of assets in such form which the insurer held at that date as the period from the end of the financial year in question to the end of a period of ten years extending from the beginning of the financial year in which such commencement date falls, bears to a period of ten years.”

9. Section 21 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (f) of subsection (1) of the following paragraph:

Amendment of section 21 of Act 27 of 1943, as substituted by section 19 of Act 73 of 1951 and amended by section 13 of Act 79 of 1959, section 18 of Act 10 of 1965 and section 1 of Act 75 of 1970.

- “(f) an asset consisting of bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which has been approved by the registrar in terms of paragraph 6A of the Third Schedule to this Act or those issued by an institution in such an approved territory which the registrar has likewise approved, if the bills, bonds or securities in question are in the Republic.”.

10. The following section is hereby inserted in the Insurance Act, 1943, after section 23:

Insertion of section 23A in Act 27 of 1943.

“Consideration for certain services may be prohibited or limited.

23A. (1) The Minister may make regulations prohibiting any consideration from passing or being offered, or limiting the consideration which may pass or be offered, from, by or on behalf of a registered insurer or an underwriter at Lloyds to any person as remuneration for services rendered or to be rendered by him towards effecting, maintaining or servicing a policy, or to any person associated in business with or related within the

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het met of binne die tweede graad van bloed- of aanverwantskap verwant is aan 'n persoon wat sodanige dienste gelewer het of moet lewer.

(2) So 'n regulasie kan—

- (a) van toepassing wees op—
- (i) slegs geregistreeerde versekeraars;
  - (ii) geregistreeerde versekeraars en versekeraars van Lloyds;
  - (iii) slegs bepaalde soorte teenprestasies;
  - (iv) slegs bepaalde soorte versekeringsbesigheid;
  - (v) slegs bepaalde tipes polisse;
  - (vi) slegs bepaalde klasse persone wat dienste beoog in subartikel (1) lewer of moet lewer;
  - (vii) slegs bepaalde soorte sodanige dienste;
- (b) onderskeid maak tussen geregistreeerde versekeraars en versekeraars van Lloyds, verskillende soorte teenprestasies en verskillende soorte versekeringsbesigheid, tipes polisse, klasse sodanige persone en soorte sodanige dienste.”

Wysiging van artikel 50 van Wet 27 van 1943, soos vervang deur artikel 26 van Wet 10 van 1965.

11. Artikel 50 van die Versekeringswet, 1943, word hierby deur die volgende artikel vervang:

„Beperking van betalings by dood van kinders benede leeftyd van veertien jaar. 50. 'n Versekeraar mag nie die lewe van 'n kind wat benede die leeftyd van veertien jaar is, verseker nie vir 'n som geld wat meer bedra, of wat, tesame met 'n bedrag wat na sy wete by die dood van daardie kind deur enige ander versekeraar of deur 'n onderlinge hulpvereniging betaalbaar is, meer bedra as—

- (a) honderd rand, indien die kind minder as ses jaar oud is; of
- (b) tweehonderd rand, indien die kind ses jaar oud of ouer, maar minder as veertien jaar oud is:

Met dien verstande dat die voorgaande bepalings van hierdie artikel nie die uitreiking belet van 'n polis wat beding dat by die dood van 'n kind 'n bedrag betaal sal word wat nie groter is nie as die som van al die premies wat op die polis betaal is, plus rente op elke premie teen 'n koers van hoogstens sewe-en-'n-half persent per jaar, jaarliks saamgestel.”

Vervanging van artikel 73 van Wet 27 van 1943, soos gewysig deur artikel 31 van Wet 10 van 1965.

12. Artikel 73 van die Versekeringswet, 1943, word hierby deur die volgende artikel vervang:

„Algemene straf-bepaling. 73. Iedereen wat 'n bepaling van hierdie Wet of 'n regulasie daarkragtens uitgevaardig, oortree of versuim om 'n deur hierdie Wet of so 'n regulasie aan hom opgelegde verpligting na te kom, is aan 'n misdryf skuldig en, indien geen straf in hierdie Wet of so 'n regulasie spesiaal voorgeskryf word vir sodanige oortreding of versuim nie, is strafbaar, as die oortreder 'n individu is, met 'n boete van hoogstens tweeduisend rand, of met gevangenisstraf van hoogstens een jaar sonder die keuse van 'n boete, of as die oortreder nie 'n individu is nie, met 'n boete van hoogstens tweeduisend rand.”

Wysiging van artikel 76 van Wet 27 van 1943, soos vervang deur artikel 9 van Wet 41 van 1966.

13. Artikel 76 van die Versekeringswet, 1943, word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:

„(2) Die regulasies kan 'n straf voorskryf, wat nie dié voorgeskryf by artikel 73 te bowe gaan nie, vir oortreding van 'n bepaling daarvan of vir versuim om 'n verpligting wat daarby opgelê is, na te kom.”

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second degree of consanguinity or affinity to any person who has rendered or is to render such services.

(2) Any such regulation may—

- (a) apply to—
  - (i) registered insurers only;
  - (ii) registered insurers and underwriters at Lloyds;
  - (iii) specified kinds of consideration only;
  - (iv) specified classes of insurance business only;
  - (v) specified types of policies only;
  - (vi) only specified classes of persons rendering or to render services contemplated in subsection (1);
  - (vii) specified kinds of such services only;
- (b) differentiate between registered insurers and underwriters at Lloyds, different kinds of consideration and different classes of insurance business, types of policies, classes of such persons and kinds of such services.”

11. The following section is hereby substituted for section 50 of the Insurance Act, 1943:

Amendment of section 50 of Act 27 of 1943, as substituted by section 26 of Act 10 of 1965.

“Restriction of payments on death of children under fourteen years of age.

50. No insurer shall insure the life of a child who is under the age of fourteen years for any sum of money which exceeds or which, when added to any amount which to his knowledge is payable on the death of that child by any other insurer or by any friendly society, exceeds—

- (a) one hundred rand, if the child is under six years of age; or
- (b) two hundred rand, if the child is six years old or older, but is under fourteen years of age:

Provided that the preceding provisions of this section shall not prohibit the issue of a policy providing for the payment, on the death of any child, of a sum not exceeding the aggregate of all the premiums paid in respect of the policy, plus interest on each premium at a rate not exceeding seven and a half per cent per annum, compounded yearly.”

12. The following section is hereby substituted for section 73 of the Insurance Act, 1943:

Substitution of section 73 of Act 27 of 1943, as amended by section 31 of Act 10 of 1965.

“General penalty.

73. Any person who contravenes any provision of this Act or any regulation made thereunder or fails to fulfil any obligation imposed on him by this Act or any such regulation shall be guilty of an offence and, if no penalty is specially prescribed in this Act or any such regulation for such contravention or default, shall be liable, if the offender is an individual, to a fine not exceeding two thousand rand, or to imprisonment for a period not exceeding one year without the option of a fine, or if the offender is not an individual, to a fine not exceeding two thousand rand.”

13. Section 76 of the Insurance Act, 1943, is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

Amendment of section 76 of Act 27 of 1943, as substituted by section 9 of Act 41 of 1966.

“(2) The regulations may prescribe a penalty, not exceeding that prescribed by section 73, for a contravention of any provision thereof or for a failure to comply with any obligation imposed thereby.”

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Wysiging van Tweede Bylae by Wet 27 van 1943, soos vervang deur artikel 45 van Wet 73 van 1951 en gewysig deur artikel 35 van Wet 10 van 1965 en artikel 26 van Wet 39 van 1969.

Wysiging van die Derde Bylae by Wet 27 van 1943, soos vervang deur artikel 46 van Wet 73 van 1951 en gewysig deur artikel 24 van Wet 79 van 1959, artikel 36 van Wet 10 van 1965, artikel 10 van Wet 41 van 1966, artikel 27 van Wet 39 van 1969 en artikel 1 van Wet 23 van 1970.

14. Die Tweede Bylae by die Versekeringswet, 1943, word hierby gewysig deur paragraaf (c) van artikel 4 deur die volgende paragraaf te vervang:

- „(c) (i) Die berekening geskied volgens 'n veronderstelde rentekoers wat by regulasie voorgeskryf is.  
(ii) So 'n veronderstelde rentekoers kan met terugwerkende krag aldus voorgeskryf word, maar nie tot 'n datum voor 31 Desember 1974 nie, en kan verskil ten opsigte van verskillende soorte lewensbesigheid of sodanige besigheid wat in verskillende lande gedryf word.”.

15. Die Derde Bylae by die Versekeringswet, 1943, word hierby gewysig—

(a) deur paragrawe 1, 2, 3, 4, 5 en 6 deur die volgende paragrawe te vervang:

1. Geld in kas in die Republiek.
2. 'n Saldo op krediet van die betrokke versekeraar in 'n rekening of as 'n deposito (behalwe 'n verhandelbare deposito) by 'n kantoor in die Republiek van 'n bankinstelling, behalwe 'n diskontohuis, ooreenkomstig die Bankwet, 1965 (Wet No. 23 van 1965), anders as voorlopig geregistreer, of 'n bouvereniging ooreenkomstig die Bouverenigingswet, 1965 (Wet No. 24 van 1965), anders as voorlopig geregistreer, of die Nasionale Finansiële Korporasie van Suid-Afrika, ingestel deur die Wet op die Nasionale Finansiële Korporasie, 1949 (Wet No. 33 van 1949).

3. (a) Wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek.

(b) Wissels, skuldbriewe, effekte of lenings deur die Regering van die Republiek gewaarborg.

(c) Wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur 'n provinsiale administrasie of die administrasie van die Gebied.

4. Wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur 'n plaaslike bestuur in die Republiek wat regtens bevoeg is om belastings op onroerende goed te hef.

4A. Wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur 'n Bantoesake-administrasieraad wat ingestel is by die Wet op die Administrasie van Bantoesake, 1971 (Wet No. 45 van 1971).

5. Wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur die Randwaterraad of die Elektrisiteitsvoorsieningskommissie of die Land- en Landboubank van Suid-Afrika.

6. Wissels, skuldbriewe of effekte uitgereik deur of lenings aan 'n instelling in die Republiek, wat die registrateur onderworpe aan die voorwaardes wat hy stel, goedgekeur het, en ook wissels, skuldbriewe of effekte uitgereik deur of lenings aan so 'n instelling wat hy insgelyks goedgekeur het.

6A. Wissels, skuldbriewe of effekte uitgereik deur die regering van of 'n plaaslike bestuur in 'n ander gebied as die Republiek wat die registrateur onderworpe aan die voorwaardes wat hy stel, goedgekeur het, en ook dié uitgereik deur 'n instelling in so 'n goedgekeurde gebied wat hy insgelyks goedgekeur het.”; en

(b) deur paragraaf 9 deur die volgende paragraaf te vervang:

„9. 'n Vordering gedek deur 'n verband op onroerende goed in die Republiek, behalwe so 'n vordering gewaarborg soos in paragraaf 3, 4, 4A of 5 beoog.”.

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14. The Second Schedule to the Insurance Act, 1943, is hereby amended by the substitution for paragraph (c) of section 4 of the following paragraph:

Amendment of Second Schedule to Act 27 of 1943, as substituted by section 45 of Act 73 of 1951 and amended by section 35 of Act 10 of 1965 and section 26 of Act 39 of 1969.

- “(c) (i) The calculation shall be based on such an assumed rate of interest as may be prescribed by regulation.  
 (ii) Such an assumed rate of interest may be so prescribed with retrospective effect, but not to a date prior to 31 December 1974, and may differ in respect of different kinds of life business or such business carried on in different countries.”

15. The Third Schedule to the Insurance Act, 1943, is hereby amended—

Amendment of the Third Schedule to Act 27 of 1943, as substituted by section 46 of Act 73 of 1951 and amended by section 24 of Act 79 of 1959, section 36 of Act 10 of 1965, section 10 of Act 41 of 1966, section 27 of Act 39 of 1969 and section 1 of Act 23 of 1970.

(a) by the substitution for paragraphs 1, 2, 3, 4, 5 and 6 of the following paragraphs:

1. Money in hand in the Republic.
2. Any amount standing to the credit of the insurer concerned in an account or as a deposit (excluding a negotiable deposit) with an office in the Republic of a banking institution, other than a discount house, registered otherwise than provisionally in terms of the Banks Act, 1965 (Act No. 23 of 1965), or a building society registered otherwise than provisionally in terms of the Building Societies Act, 1965 (Act No. 24 of 1965), or the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949).

3. (a) Bills, bonds or securities issued by or loans to the Government of the Republic.

(b) Bills, bonds, securities or loans guaranteed by the Government of the Republic.

(c) Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by a provincial administration or the administration of the Territory.

4. Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by any local authority in the Republic authorized by law to levy rates upon immovable property.

4A. Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by a Bantu Affairs Administration Board established by the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971).

5. Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Rand Water Board or the Electricity Supply Commission or the Land and Agricultural Bank of South Africa.

6. Bills, bonds or securities issued by or loans to an institution in the Republic, which the registrar has approved subject to such conditions as he may impose, and also bills, bonds or securities issued by or loans to such an institution which he has likewise approved.

6A. Bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the registrar has approved subject to such conditions as he may impose, and also those issued by an institution in such an approved territory which he has likewise approved.”; and

(b) by the substitution for paragraph 9 of the following paragraph:

“9. Any claim secured by a mortgage bond on immovable property in the Republic, except any such claim which is guaranteed as contemplated in paragraph 3, 4, 4A or 5.”

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Invoeging van artikel 2B in Wet 7 van 1947.

16. Die volgende artikel word hierby in die Wet op Beheer van Effektebeurse, 1947, na artikel 2A ingevoeg:

„Verbod op publikasies. 2B. (1) Niemand behalwe 'n gelisensieerde effektebeurs mag as 'n staande kenmerk van sy besigheid, 'n skema of reëling aangaan of voortsit nie ingevolge waarvan besonderhede gepubliseer, uitgereik of gesirkuleer word van effekte wat so iemand of 'n ander persoon wil koop of verkoop.

(2) Die bepalings van subartikel (1)—

- (a) is nie van toepassing nie ten opsigte van 'n skema of reëling wat die publikasie van besonderhede van effekte van die soorte in artikel 2 (1) (c) vermeld, toelaat en wat die registrateur van die bepalings van hierdie Wet vrygestel het onderworpe aan die voorwaardes (indien daar is) wat hy na goeddunke oplê;
- (b) word nie so uitgelê dat dit enige bepaling van die Maatskappywet, 1973 (Wet No. 61 van 1973), beperk, wysig, herroep of andersins verander of dat dit 'n persoon onthef van 'n verpligting deur genoemde Wet opgelê, of dat dit 'n persoon verbied om aan enige van die bepalings van genoemde Wet te voldoen nie.”.

Wysiging van artikel 1 van Wet 18 van 1947, soos gewysig deur artikel 1 van Wet 11 van 1962, artikel 1 van Wet 65 van 1963, artikel 5 van Wet 58 van 1966 en artikel 4 van Wet 65 van 1968.

17. Artikel 1 van die Wet op Beheer van Effekte-trustskemas, 1947, word hierby gewysig deur na die omskrywing van „gelisensieerde effektebeurs” die volgende omskrywing in te voeg: „„likwiede bates’ die totale bedrag van sodanige goedgekeurde effekte, deposito’s en ander bates (met inbegrip van Reserwebanknote en pasmunt) as wat die registrateur by kennisgewing in die *Staatskoerant* vir die doeleindes van hierdie omskrywing mag bepaal;”.

Wysiging van artikel 8 van Wet 18 van 1947, soos vervang deur artikel 7 van Wet 11 van 1962 en gewysig deur artikel 3 van Wet 65 van 1963, artikel 6 van Wet 58 van 1966, artikel 5 van Wet 65 van 1968 en artikel 2 van Wet 75 van 1970.

18. (1) Artikel 8 van die Wet op Beheer van Effekte-trustskemas, 1947, word hierby gewysig—

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

„(1A) 'n Bestuursmaatskappy, behalwe 'n bestuursmaatskappy in eiendomsaandeel, sluit by elke effektegroepe likwiede bates in met 'n gesamentlike markwaarde van minstens vyf persent van die totale markwaarde van al die bates wat in die effektegroepe opgeneem is of, indien 'n ander persentasie, hetsy groter of kleiner, vir die doel van hierdie subartikel by regulasie voorgeskryf word, die persentasie wat aldus van tyd tot tyd voorgeskryf is: Met-dien verstande dat die registrateur 'n bestuursmaatskappy op laasgenoemde se versoek van die bepalings van hierdie subartikel kan vrystel in die mate en vir die tydperk en op die voorwaardes wat hy bepaal.”; en

(b) deur na genoemde subartikel (1A) die volgende subartikel in te voeg:

„(1B) 'n Bestuursmaatskappy wat onmiddellik voor die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, 'n effekte-trustskema bestuur het met 'n effektegroepe wat goedgekeurde effekte ingesluit het ingevolge die bepalings van hierdie Wet soos hulle onmiddellik voor genoemde inwerkingtreding bestaan het, sit nie sodanige effekte van die hand nie, behalwe ooreenkomstig 'n skema wat deur die registrateur goedgekeur is.”.

Wysiging van artikel 20 van Wet 18 van 1947, soos gewysig deur artikel 18 van Wet 11 van 1962.

19. Artikel 20 van die Wet op Beheer van Effekte-trustskemas, 1947, word hierby gewysig—

(a) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:

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16. The following section is hereby inserted in the Stock Exchanges Control Act, 1947, after section 2A:

Insertion of section 2B in Act 7 of 1947.

"Prohibition of publications.

2B. (1) No person, other than a licensed stock exchange, shall, as a regular feature of his business, enter into or carry on a scheme or arrangement in pursuance whereof particulars are published, issued or circulated of securities which such person or any other person desires to buy or to sell.

(2) The provisions of subsection (1) shall not—

- (a) apply in respect of a scheme or arrangement permitting the publication of particulars of securities of the kinds referred to in section 2 (1) (c) and which the registrar has exempted from the provisions of this Act subject to such conditions (if any) as he may deem fit to impose;
- (b) be construed as limiting, amending, repealing or otherwise modifying any of the provisions of the Companies Act, 1973 (Act No. 61 of 1973), or as exempting a person of any duty imposed by the said Act or as prohibiting a person from complying with any of the provisions of the said Act."

17. Section 1 of the Unit Trusts Control Act, 1947, is hereby amended by the insertion after the definition "licensed stock exchange" of the following definition:

Amendment of section 1 of Act 18 of 1947, as amended by section 1 of Act 11 of 1962, section 1 of Act 65 of 1963, section 5 of Act 58 of 1966 and section 4 of Act 65 of 1968.

"liquid assets" means the aggregate amount of such approved securities, deposits and other assets (including Reserve Bank notes and subsidiary coin) as the registrar may by notice in the *Gazette* determine for the purposes of this definition;"

18. (1) Section 8 of the Unit Trusts Control Act, 1947, is hereby amended—

Amendment of section 8 of Act 18 of 1947, as substituted by section 7 of Act 11 of 1962 and amended by section 3 of Act 65 of 1963, section 6 of Act 58 of 1966, section 5 of Act 65 of 1968 and section 2 of Act 75 of 1970.

(a) By the substitution for subsection (1A) of the following subsection:

"(1A) Every management company, other than a management company in property shares, shall include in every unit portfolio liquid assets with an aggregate market value of not less than five per centum of the aggregate market value of all the assets comprised in the unit portfolio or, if any other percentage, whether greater or smaller, is prescribed by regulation for the purpose of this subsection, the percentage so prescribed from time to time: Provided that the registrar may exempt a management company at the latter's request from the provisions of this subsection to such extent and for such period and on such conditions as he may determine."; and

(b) by the insertion after the said subsection (1A) of the following subsection:

"(1B) A management company which immediately prior to the commencement of the Financial Institutions Amendment Act, 1976, managed a unit trust scheme with a unit portfolio which included approved securities in terms of the provisions of this Act as they existed immediately prior to such commencement, shall not dispose of such securities otherwise than in accordance with a scheme approved by the registrar."

19. Section 20 of the Unit Trusts Control Act, 1947, is hereby amended—

Amendment of section 20 of Act 18 of 1947, as amended by section 18 of Act 11 of 1962.

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

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- „(c) ’n instelling wat die reg het om kragtens die Bankwet, 1965 (Wet No. 23 van 1965), as ’n bank-instelling sake te doen; of”; en
- (b) deur na genoemde paragraaf (c) die volgende paragraaf in te voeg:
- „(d) ’n instelling wat kragtens die Versekeringswet, 1943 (Wet No. 27 van 1943), as ’n binnelandse versekeraar geregistreer is.”

Vervanging van artikel 35 van Wet 18 van 1947, soos vervang deur artikel 10 van Wet 65 van 1968.

20. Artikel 35 van die Wet op Beheer van Effekte-trustskemas, 1947, word hierby deur die volgende artikel vervang:

„Sekere bepalinge van Deel I is van toepassing op en ten opsigte van effekte-trustskemas in eiendomsaandeel.

35. Artikels 7, 8ter, 9, 10bis, 11 (1), (2) en (3) (behalwe subartikel (1) (c)), 12, 13, 14, 16, 17, 18 (1), 19, 20, 21, 22 (behalwe subartikels (1) (f) en (2) (c)), 23, 24, 25, 26 en 27 is *mutatis mutandis* en vir sover hulle toegepas kan word, op en ten opsigte van ’n bestuursmaatskappy in eiendomsaandeel en ’n trustee ingevolge ’n effekte-trustskema in eiendomsaandeel van toepassing, en by die toepassing daarvan word ’n verwysing daarin na amortisasie van kwynende bates vertolk as ’n verwysing na waardevermindering van bates.”

Wysiging van artikel 1 van Wet 24 van 1956.

21. Artikel 1 van die Wet op Pensioenfondse, 1956, word hierby gewysig—

- (a) deur in subartikel (1) voor die omskrywing van „aktuaris” die volgende omskrywings in te voeg:
- „afhanklike’, met betrekking tot ’n lid, iemand wat, na beskouing van die persoon wat die besigheid van die betrokke fonds bestuur, van die lid vir onderhoud afhanklik is en ook die eggenote of eggenoot of ’n afstammeling van die lid wat ooreenkomstig die reëls van die fonds op ’n voordeel geregtig mag word;
- „aftreedatum’ die datum waarop ’n lid ooreenkomstig die statute van ’n fonds weens ouderdom, swak gesondheid of personeelinkorting op toekenning van ’n jaargeld of op ontvangs van ’n eenbedragbetaling geregtig word;”;
- (b) deur in genoemde subartikel (1) die omskrywing van „lid” deur die volgende omskrywing te vervang:
- „lid’, met betrekking tot—
- (a) ’n in paragraaf (a) van die omskrywing van „pensioenfondsorganisasie’ bedoelde fonds, ’n lid of vorige lid van die vereniging waardeer daardie fonds ingestel is;
- (b) ’n in paragraaf (b) van daardie omskrywing bedoelde fonds, ’n persoon wat tot ’n klas persone behoort of behoort het vir wie se voordeel die fonds ingestel is, maar nie ook so ’n lid of vorige lid of persoon wat alle uit die fonds aan hom verskuldigde voordele ontvang het en wie se lidmaatskap daarna ooreenkomstig die statute van die fonds beëindig is nie;”;
- (c) deur in genoemde subartikel (1) die omskrywing van „pensioenfondsorganisasie” deur die volgende omskrywing te vervang:
- „pensioenfondsorganisasie’—
- (a) ’n vereniging van persone wat opgerig is om jaargelde of eenbedragbetalings te verskaf aan lede of gewese lede van daardie vereniging wanneer hulle hul aftreedatums bereik, of aan afhanklikes van sodanige lede of gewese lede by die dood van daardie lede of gewese lede; of



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- “(c) an institution which is entitled to carry on business as a banking institution under the Banks Act, 1965 (Act No. 23 of 1965); or”; and
- (b) by the insertion after the said paragraph (c) of the following paragraph:
  - “(d) an institution which is registered as a domestic insurer under the Insurance Act, 1943 (Act No. 27 of 1943).”.

20. The following section is hereby substituted for section 35 of the Unit Trusts Control Act, 1947:

“Certain provisions of Part I to apply to and in respect of unit trust schemes in property shares.

35. Sections 7, 8*ter*, 9, 10*bis*, 11 (1), (2) and (3) (excluding subsection (1) (c)), 12, 13, 14, 16, 17, 18 (1), 19, 20, 21, 22 (excluding subsections (1) (f) and (2) (c)), 23, 24, 25, 26 and 27 shall *mutatis mutandis* and in so far as they can be applied, apply to and in respect of a management company in property shares and a trustee under a unit trust scheme in property shares, and in the application thereof a reference therein to amortization of wasting assets shall be construed as a reference to depreciation of assets.”.

Substitution of section 35 of Act 18 of 1947, as substituted by section 10 of Act 65 of 1968.

21. Section 1 of the Pension Funds Act, 1956, is hereby amended—

Amendment of section 1 of Act 24 of 1956.

- (a) by the insertion in subsection (1) after the definition of “court” of the following definition:
  - “‘dependant’, in relation to a member, means a person considered by the person managing the business of the fund concerned as being dependent on the member for maintenance and includes the spouse or a descendant of the member who in accordance with the rules of the fund may become entitled to a benefit;”;
- (b) by the substitution in the said subsection (1) for the definition of “member” of the following definition:
  - “‘member’, means, in relation to—
    - (a) a fund referred to in paragraph (a) of the definition of ‘pension fund organization’, any member or former member of the association by which such fund has been established;
    - (b) a fund referred to in paragraph (b) of that definition, a person who belongs or belonged to a class of persons for whose benefit that fund has been established,
 but does not include any such member or former member or person who has received all the benefits which may be due to him from the fund and whose membership has thereafter been terminated in accordance with the rules of the fund;”;
- (c) by the substitution in the said subsection (1) for the definition of “pension fund organization” of the following definition:
  - “‘pension fund organization’ means—
    - (a) any association of persons established with the object of providing annuities or lump sum payments for members or former members of such association upon their reaching their retirement dates, or for the dependants of such members or former members upon the death of such members or former members; or

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(b) enige besigheid wat gedryf word ingevolge 'n skema of reëling ingestel met die oogmerk om jaargelde of eenbedragbetalings te verskaf aan persone wat behoort of behoort het tot die klas persone vir wie se voordeel daardie skema of reëling ingestel is, wanneer hulle hul aftreedatums bereik, of aan afhanklikes van sodanige persone by die dood van daardie persone,

en ook so 'n vereniging of besigheid wat, benewens die dryf van besigheid in verband met enige van die oogmerke in paragraaf (a) of (b) genoem, ook besigheid dryf in verband met enige van die oogmerke waarvoor 'n onderlinge hulpvereniging soos in artikel 2 van die Wet op Onderlinge Hulpverenigings, 1956, omskryf, ingestel mag word, of wat aanspreklik is of mag word vir die betaling van enige voordele waarvoor sy statute voorsiening maak, hetsy hy aanhou om lede in te neem of bydraes van of ten behoeve van hulle in te vorder, al dan nie;" en

(d) deur in genoemde subartikel (1) die omskrywing van „registrateur” deur die volgende omskrywing te vervang:

„registrateur” die Registrateur of die Adjunk-registrateur van Pensioenfondse kragtens artikel 3 aangestel;"

Wysiging van artikel 3 van Wet 24 van 1956.

22. Artikel 3 van die Wet op Pensioenfondse, 1956, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Die Minister stel insgelyks 'n amptenaar, genoem die Adjunk-registrateur van Pensioenfondse, aan om die registrateur by die verrigting van sy pligte soos voormeld behulpsaam te wees.”

Wysiging van artikel 19 van Wet 24 van 1956, soos gewysig deur artikel 13 van Wet 80 van 1959, artikel 9 van Wet 58 van 1966, artikel 1 van Wet 80 van 1969, artikel 2 van Wet 23 van 1970 en artikel 7 van Wet 91 van 1972.

23. Artikel 19 van die Wet op Pensioenfondse, 1956, word hierby gewysig—

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

„(1) 'n Geregistreerde fonds moet, behoudens die bepalinge van subartikels (6) en (7), bates gelyk in waarde aan minstens vyftig persent van die totale waarde van al die bates van die fonds in een of meer van die volgende klasse van bates in die Republiek hou, te wete—

(a) geld in kas in die Republiek;

(b) 'n batige saldo van die betrokke fonds in 'n rekening of as 'n deposito (behalwe 'n deposito wat verhandelbaar is) by 'n kantoor in die Republiek van 'n bankinstelling geregistreer kragtens die Bankwet, 1965 (Wet No. 23 van 1965), of by 'n bouvereniging geregistreer kragtens die Bouverenigingswet, 1965 (Wet No. 24 van 1965), of by die Nasionale Finansiële Korporasie van Suid-Afrika ingestel kragtens die Wet op die Nasionale Finansiële Korporasie, 1949 (Wet No. 33 van 1949), of by die Posspaarbank;

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

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

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- (b) any business carried on under a scheme or arrangement established with the object of providing annuities or lump sum payments for persons who belong to the class of persons for whose benefit that scheme or arrangement has been established, when they reach their retirement dates or for dependants of such persons upon the death of those persons, and includes any such association or business which in addition to carrying on business in connection with any of the objects specified in paragraph (a) or (b) also carries on business in connection with any of the objects for which a friendly society may be established, as specified in section 2 of the Friendly Societies Act, 1956, or which is or may become liable for the payment of any benefits provided for in its rules, whether or not it continues to admit, or to collect contributions from or on behalf of, members;";
- (d) by the substitution in the said subsection (1) for the definition of "registrar" of the following definition: "registrar" means the Registrar or the Deputy Registrar of Pension Funds appointed under section 3;"; and
- (e) by the insertion in the said subsection (1) after the definition of "regulation" of the following definition: "retirement date" means the date on which a member becomes entitled in terms of the rules of a fund to the grant of an annuity or the receipt of a lump sum payment on account of age, ill-health or retrenchment of staff;";

22. Section 3 of the Pension Funds Act, 1956, is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 3 of Act 24 of 1956.

"(2) The Minister shall similarly appoint an officer to be styled the Deputy Registrar of Pension Funds to assist the registrar in carrying out his duties as aforesaid."

23. Section 19 of the Pension Funds Act, 1956, is hereby amended: Amendment of section 19 of Act 24 of 1956, as amended by section 13 of Act 80 of 1959, section 9 of Act 58 of 1966, section 1 of Act 80 of 1969, section 2 of Act 23 of 1970 and section 7 of Act 91 of 1972.

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

"(1) A registered fund shall, subject to the provisions of subsections (6) and (7), hold in the Republic assets equal in value to at least fifty per cent of the aggregate value of all the assets of the fund in one of more of the following classes of assets, namely—

- (a) money in hand in the Republic;
- (b) any amount standing to the credit of the fund concerned in an account or as a deposit (excluding a negotiable deposit) with an office in the Republic of a banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), or with a building society registered under 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 or loans to or guaranteed by the Government of the Republic or a provincial administration;
- (d) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by or deposits with any local authority in the Republic authorized by law to levy rates upon immovable property;

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- (dA) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur 'n Bantoesake-administrasieraad ingestel kragtens die Wet op die Administrasie van Bantoesake, 1971 (Wet No. 45 van 1971);
- (e) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur die Randwaterraad of die Elektrisiteitsvoorsieningskommissie;
- (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 Reserwebank-aandele;
- (h) wissels, skuldbriewe of effekte uitgereik deur of lenings aan 'n instelling in die Republiek, wat die registrateur, onderworpe aan die voorwaardes wat hy stel, goedgekeur het, en ook wissels, skuldbriewe of effekte uitgereik deur of lenings aan so 'n instelling wat die registrateur insgelyks goedgekeur het;
- (i) wissels, skuldbriewe of effekte uitgereik deur die regering van of 'n plaaslike bestuur in 'n ander gebied as die Republiek wat die registrateur, onderworpe aan die voorwaardes wat hy stel, goedgekeur het, en ook dié uitgereik deur 'n instelling in so 'n goedgekeurde gebied wat die registrateur insgelyks goedgekeur het:

Met dien verstande dat 'n geregistreerde fonds wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek ten bedrae van minstens twintig persent van die totale waarde van al die bates van die fonds moet hou.”;

- (b) deur subartikel (5) deur die volgende subartikel te vervang:

„(5) 'n Geregistreerde fonds kan, indien sy statute aldus bepaal—

- (a) by wyse van belegging van sy fondse, 'n lening, verseker deur 'n eerste verband op onroerende eiendom, aan 'n lid toestaan ten einde die lid in staat te stel om—
  - (i) 'n lening af te los wat deur iemand anders as die fonds aan die lid toegestaan is teen sekuriteit van onroerende eiendom waarop 'n woning opgerig is wat deur die lid, of 'n afhanklike of afhanklikes van die lid, bewoon word; of
  - (ii) 'n woning aan te koop, of grond aan te koop en 'n woning daarop op te rig, vir bewoning deur die lid of 'n afhanklike of afhanklikes van die lid;
  - (iii) aanbouings of veranderings aan te bring aan 'n woning wat deur die lid of 'n afhanklike of afhanklikes van die lid bewoon word:

Met dien verstande dat so 'n lening in geen geval vyf-en-sewentig persent van die markwaarde van die verhipotekeerde eiendom, plus die bedrag wat die betrokke lid op die datum van die lening sou ontvang het as hy sy lidmaatskap vrywillig op daardie datum beëindig het, of bedoelde markwaarde, watter ook al die kleinste is, te bowe gaan nie; en

- (b) tot 'n ander kragtens hierdie Wet geregistreerde pensioenfonds of 'n fonds van watter aard ook al wat vir die voordeel van die werknemers van bedoelde geregistreerde fonds gedryf word, bydra.”;
- (c) deur na subartikel (5) die volgende subartikels in te voeg:

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- (dA) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by a Bantu Affairs Administration Board established under the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971);
- (e) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Rand Water Board or the Electricity Supply Commission;
- (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;
- (h) bills, bonds or securities issued by or loans to an institution in the Republic, which the registrar has approved subject to such conditions as he may impose, and also bills, bonds or securities issued by or loans to such an institution which the registrar has likewise approved;
- (i) bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the registrar has approved subject to such conditions as he may impose, and also those issued by an institution in such an approved territory which the registrar has likewise approved:

Provided that a registered fund shall hold bills, bonds or securities issued by or loans to the Government of the Republic, in an amount of not less than twenty per cent of the aggregate value of all the assets of the fund.”;

- (b) by the substitution for subsection (5) of the following subsection:

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

- (a) grant a loan, secured by a first mortgage of immovable property, by way of investment of its funds, to a member to enable the member to—
  - (i) redeem a loan which was granted to the member by a person other than the fund against security of immovable property on which a dwelling has been erected which is occupied by the member or a dependant or dependants of the member; or
  - (ii) purchase a dwelling, or to purchase land and erect a dwelling on it, for occupation by the member or a dependant or dependants of the member; or
  - (iii) make additions or alterations to a dwelling occupied by the member or a dependant or dependants of the member:

Provided that such a loan shall in no case exceed seventy-five per cent of the market value of the hypothecated property, plus the amount the member concerned would have received on the date of the loan had he terminated his membership voluntarily on that date, or the said market value, whichever is the smaller; and

- (b) contribute to any other pension fund registered under this Act or any fund of any kind whatsoever which is conducted for the benefit of the employees of the said registered fund.”;
- (c) by the insertion after subsection (5) of the following subsections:

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„(5A) By die toepassing van subartikel (5) beteken ‚markwaarde‘, die prys wat by ’n verkoping in die Republiek tussen ’n gewillige verkoper en ’n gewillige koper (tussen wie daar geen ander regstreekse of onregstreekse verband bestaan nie) verkry sou word, soos beraam deur ’n persoon wat deur die betrokke geregistreerde fonds vir daardie doel aangestel is: Met dien verstande dat waar ’n transaksie vir die aankoop van ’n onroerende eiendom (behalwe onbeboude grond waarop ’n woning opgerig word of staan te word) hangende is en daar reeds omtrent ’n koopsom ooreengekom is, of waar so ’n onroerende eiendom hoogstens ses maande voor die datum waarop die beraming gemaak word, deur aankoop verkry is, die markwaarde van die eiendom nie op ’n groter bedrag as die ware koopsom van die eiendom, soos deur die betrokke partye vir die doeleindes van hereregte aangegee of aangegee moet word plus, in laasbedoelde geval, eenhonderd rand, gestel mag word nie.

(5B) Ondanks andersluidende bepalings van die statute van ’n geregistreerde fonds, mag so ’n fonds, na die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976—

- (a) nie ’n lening aan ’n lid toestaan nie, behalwe ’n lening soos in subartikel (5) bedoel; en
- (b) nie ’n lening toestaan nie aan of belê nie in die aandele van—
  - (i) ’n maatskappy wat deur ’n beamppte of ’n lid van die fonds of ’n direkteur van ’n maatskappy wat ’n werkgewer is wat deelneem aan die skema of reëling waarby die fonds ingestel is, beheer word; of
  - (ii) ’n filiaalmaatskappy of ’n beheerde maatskappy (soos in die Maatskappywet, 1973 (Wet No. 61 van 1973), omskryf) van so ’n eersgenoemde maatskappy.”;
- (d) deur paragraaf (b) van subartikel (6) deur die volgende paragraaf te vervang:
 

„(b) Die bepalings van die voorbehoudsbepaling by subartikel (1) en van subartikel (7) is nie van toepassing nie op ’n geregistreerde fonds opgerig of gedryf deur ’n plaaslike bestuur wat minstens negentig persent van die totale waarde van al sy bates hou in een of meer van die soorte bates in paragrawe (c), (d), (dA) en (e) van genoemde subartikel (1) vermeld.”;
- (e) deur paragraaf (b) van subartikel (7) deur die volgende paragraaf te vervang:
 

„(b) die vereistes van die voorbehoudsbepaling by subartikel (1), moet daardie fonds, totdat sy bates aan bedoelde vereistes voldoen, aan die einde van elke boekjaar wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek hou, met ’n totale waarde van minstens—

  - (i) die in die genoemde voorbehoudsbepaling voorgeskrewe bedrag, min
  - (ii) ’n bedrag wat in dieselfde verhouding staan tot die bedrag waarmee twintig persent van die totale waarde van al die bates van die fonds op 31 Desember 1971 die totale waarde van die wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek op daardie datum deur die fonds gehou, oorskryf het, as wat die tydperk wat strek vanaf die einde van die betrokke boekjaar tot 31 Desember 1981 tot ’n tydperk van tien jaar staan.”; en

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“(5A) For the purposes of subsection (5) ‘market value’ means the price which would be obtained on a sale in the Republic between a willing seller and a willing purchaser (between whom there is no other direct or indirect connection), as estimated by a person appointed by the registered fund concerned for that purpose: Provided that where a transaction for the purchase of an immovable property (other than vacant land upon which a dwelling is in the course of erection or about to be erected) is pending and a purchase price has already been agreed upon, or where such an immovable property was acquired by purchase not more than six months before the date on which the estimate is made, the market value of the property shall not be fixed at an amount higher than the true purchase price of the property, as declared or to be declared by the parties concerned for transfer duty purposes, plus, in the last-mentioned case, one hundred rand.

(5B) Notwithstanding anything to the contrary contained in the rules of a registered fund, such a fund shall not, after the commencement of the Financial Institutions Amendment Act, 1976—

- (a) grant a loan to a member, other than a loan contemplated in subsection (5); or
- (b) grant a loan to, or invest in the shares of—
  - (i) a company controlled by an officer or a member of the fund or a director of a company which is an employer participating in the scheme or arrangement whereby the fund has been established; or
  - (ii) a subsidiary company or a controlled company (as defined in the Companies Act, 1973 (Act No. 61 of 1973)), of such a first-mentioned company.”;
- (d) by the substitution for paragraph (b) of subsection (6) of the following paragraph:
 

“(b) The provisions of the proviso to subsection (1) and of subsection (7) shall not apply to a registered fund established or conducted by a local authority which holds at least ninety per cent of the aggregate value of all its assets in one or more of the kinds of assets mentioned in paragraphs (c), (d), (dA) and (e) of the said subsection (1).”;
- (e) by the substitution for paragraph (b) of subsection (7) of the following paragraph:
 

“(b) the requirements of the proviso to subsection (1), such fund shall, until its assets satisfy the said requirements, hold at the end of each financial year, bills, bonds or securities issued by or loans to the Government of the Republic, having an aggregate value not less than—

  - (i) the amount prescribed in the said proviso, less
  - (ii) an amount which bears the same ratio to the amount by which twenty per cent of the aggregate value of all the assets of the fund on 31 December 1971, exceeded the aggregate value of the bills, bonds or securities issued by or loans to the Government of the Republic held by the fund on that date, as the period extending from the end of the financial year in question to 31 December 1981, bears to a period of ten years.”; and

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(f) deur die volgende subartikel by te voeg:

„(8) Met ingang van 12 Desember 1974 word geag dat van die waarde van 'n geregistreerde fonds se besit aan onderaandeel in 'n effekte-trustskema soos omskryf in die Wet op Beheer van Effekte-trustskemas, 1947 (Wet No. 18 van 1947), bedrae gelykstaande met sodanige persentasies, indien daar is, as wat die registrateur van tyd tot tyd mag bepaal, gehou word in—

(a) bates van die in subartikel (1) vermelde klasse; en

(b) wissels, skuldbriewe of effekte uitgereik deur of lenings aan die Regering van die Republiek.”.

Invoeging van artikels 37A, 37B en 37C in Wet 24 van 1956.

24. Die volgende artikels word hierby in die Wet op Pensioenfondse, 1956, na artikel 37 ingevoeg:

„Pensioenvoordele kan nie oorgedra of in beslag geneem word nie.

37A. Behalwe in die mate by hierdie Wet, die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), en die Wet op Onderhoud, 1963 (Wet No. 23 van 1963), veroorloof, kan geen voordeel waarvoor in die statute van 'n geregistreerde fonds voorsiening gemaak word, of reg op so 'n voordeel, of reg ten opsigte van bydraes deur of ten behoewe van 'n lid gestort, ondanks andersluidende bepalings van die statute van so 'n fonds, oorgedra of andersins gesedeer of verpand of met verband beswaar word nie, of ingevolge 'n vonnis of bevel van 'n geregshof in beslag geneem of aan enige vorm van tenuitvoerlegging onderwerp word nie, of tot die bedrag van hoogstens drieduisend rand per jaar is, in berekening gebring word nie by 'n vasstelling van 'n vonnis-skuldenaar se finansiële toestand ingevolge artikel 65 van die Wet op Landdroshowe, 1944, en in die geval waar die betrokke bevoordeelde poog om so 'n voordeel of reg oor te dra of andersins te sedeer, of om dit te verpand of met verband te beswaar, kan die betrokke fonds betaling daarvan terughou, opskort of geheel en al staak: Met dien verstande dat die fonds, gedurende die tydperk wat hy bepaal, so 'n voordeel of enige voordeel uit hoofde van sodanige bydraes, of gedeelte daarvan, kan betaal aan een of meer van die bevoordeelde se afhanklikes of aan 'n voog of kurator vir die voordeel van sodanige afhanklike of afhanklikes.

Uitwerking van insolvensie op pensioenvoordele.

37B. Indien die boedel van iemand wat op 'n voordeel geregtig is wat ingevolge die statute van 'n geregistreerde pensioenfonds betaalbaar is (met inbegrip van 'n jaargeld wat bedoelde pensioenfonds vir daardie persoon by 'n versekeraar gekoop het) gesekwestreer of oorgegee word, word sodanige voordeel nie geag deel van die bates in die insolvente boedel van daardie persoon uit te maak nie, en mag dit, ondanks andersluidende bepalings van 'n wet op insolvensie, op generlei wyse deur die kurator van sy insolvente boedel of deur sy skuldeisers in beslag geneem of toegeëien word nie.

Hoe by dood van lid met pensioenvoordele gehandel moet word.

37C. Ondanks andersluidende bepalings van 'n wet of van die statute van 'n geregistreerde fonds, maak enige voordeel wat deur so 'n fonds ten opsigte van 'n gestorwe lid betaalbaar is, nie deel van die bates in die boedel van so 'n lid uit nie, maar word dit aan een of meer van die lid se afhanklikes betaal, indien daar so 'n afhanklike of sodanige afhanklike is, of aan 'n voog of kurator vir die voordeel van sodanige afhanklike of afhanklikes:



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(f) by the addition of the following subsection:

“(8) With effect from 12 December 1974 it shall be deemed that of the value of a registered fund's holding of units in a unit trust scheme as defined in the Unit Trusts Control Act, 1947 (Act No. 18 of 1947), amounts equal to such percentages, if any, as the registrar may from time to time determine, are held in—

- (a) assets of the classes referred to in subsection (1); and
- (b) bills, bonds or securities issued by or loans to the Government of the Republic.”

24. The following sections are hereby inserted in the Pension Funds Act, 1956, after section 37:

Insertion of sections 37A, 37B and 37C in Act 24 of 1956.

“Pension benefits not transferable or executable.

37A. Save to the extent permitted by this Act, the Income Tax Act, 1962 (Act No. 58 of 1962), and the Maintenance Act, 1963 (Act No. 23 of 1963), no benefit provided for in the rules of a registered fund, or right to such benefit, or right in respect of contributions made by or on behalf of a member, shall, notwithstanding anything to the contrary contained in the rules of such a fund, be capable of being transferred or otherwise ceded, or of being pledged or hypothecated, or be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, or to the extent of not more than three thousand rand per annum, be capable of being taken into account in a determination of a judgment debtor's financial position in terms of section 65 of the Magistrates' Courts Act, 1944, and in the event of the beneficiary concerned attempting to transfer or otherwise cede, or to pledge or hypothecate, such benefit or right, the fund concerned may withhold, suspend or entirely discontinue payment thereof: Provided that the fund may pay any such benefit or any benefit in pursuance of such contributions or part thereof, to any one or more of the dependants of the beneficiary or to a guardian or trustee for the benefit of such dependant or dependants during such period as it may determine.

Effect of insolvency on pension benefits.

37B. If the estate of any person entitled to a benefit payable in terms of the rules of a registered pension fund (including an annuity purchased by the said fund from an insurer for that person) is sequestrated or surrendered, such benefit shall not be deemed to form part of the assets in the insolvent estate of that person and may not in any way be attached or appropriated by the trustee in his insolvent estate or by his creditors, notwithstanding anything to the contrary in any law relating to insolvency.

How pension benefits to be dealt with on death of member.

37C. Notwithstanding anything to the contrary contained in any law or in the rules of a registered fund, any benefit payable by such a fund in respect of a deceased member, shall not form part of the assets in the estate of such a member but shall be paid to any one or more of the dependants of the member, if there is such a dependant or are such dependants, or to a guardian or trustee for the bene-

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Met dien verstande dat indien so 'n afhanklike of sodanige afhanklikes nie binne 'n tydperk van ses maande na die dood van die lid deur die betrokke fonds opgespoor kan word nie, of indien geen eis binne genoemde tydperk deur daardie fonds van so 'n afhanklike of sodanige afhanklikes ontvang word nie, die voordeel in die boedel van die lid gestort kan word."

Wysiging van artikel 1 van Wet 25 van 1956.

25. Artikel 1 van die Wet op Onderlinge Hulpverenigings, 1956, word hierby gewysig deur in subartikel (1) die omskrywing van „registrateur” deur die volgende omskrywing te vervang:

„„registrateur” die Registrateur of die Adjunk-registrateur van Onderlinge Hulpverenigings kragtens artikel 4 aangestel;”.

Wysiging van artikel 4 van Wet 25 van 1956.

26. Artikel 4 van die Wet op Onderlinge Hulpverenigings, 1956, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Die Minister stel insgelyks 'n amptenaar, genoem die Adjunk-registrateur van Onderlinge Hulpverenigings, aan om die registrateur by die verrigting van sy pligte soos voormeld behulpsaam te wees.”.

Wysiging van artikel 19 van Wet 25 van 1956.

27. Artikel 19 van die Wet op Onderlinge Hulpverenigings, 1956, word hierby gewysig—

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

„(1) Geen vereniging mag die lewe van 'n kind benede die leeftyd van veertien jaar verseker nie vir 'n som geld wat of alleen of tesame met enige bedrag wat, volgens die wete van daardie vereniging, by die dood van daardie kind betaalbaar is deur enige ander vereniging of deur 'n versekeraar wat versekeringsbesigheid binne die bedoeling van die Versekeringswet dryf, meer bedra as—

(a) honderd rand, indien die kind minder as ses jaar oud is; of

(b) tweehonderd rand, indien die kind ses jaar oud of ouer, maar minder as veertien jaar oud is.”; en

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

„(3) Die bepalings van hierdie artikel word nie so uitgelê nie dat dit 'n versekering belet wat voorsiening maak vir die betaling by die dood van 'n kind benede die leeftyd van veertien jaar van 'n bedrag wat in die geheel nie die som van al die bydraes op so 'n versekering betaal, plus rente op elke bydrae teen 'n koers van hoogstens sewe-en-'n-half persent per jaar, jaarliks saamgestel, oorskry nie.”.

Wysiging van artikel 20 van Wet 25 van 1956, soos gewysig deur artikel 15 van Wet 80 van 1959.

28. Artikel 20 van die Wet op Onderlinge Hulpverenigings, 1956, word hierby gewysig—

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

„(2) Bates gelyk in waarde aan minstens veertig persent van die totale waarde van al die bates van 'n geregistreeerde vereniging moet behoudens die bepalings van subartikel (6) in een of meer van die volgende klasse bates in die Republiek gehou word, te wete—

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fit of such dependant or dependants: Provided that if such dependant or dependants cannot be traced by the fund concerned within a period of six months after the death of the member, or if no claim is received by that fund from such dependant or dependants within the said period, the benefit may be paid over to the estate of the member."

25. Section 1 of the Friendly Societies Act, 1956, is hereby amended by the substitution in subsection (1) for the definition of "registrar" of the following definition: Amendment of section 1 of Act 25 of 1956.

"registrar" means the Registrar or the Deputy Registrar of Friendly Societies appointed under section 4;".

26. Section 4 of the Friendly Societies Act, 1956, is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 4 of Act 25 of 1956

"(2) The Minister shall similarly appoint an officer to be styled the Deputy Registrar of Friendly Societies to assist the registrar in carrying out his duties as aforesaid."

27. Section 19 of the Friendly Societies Act, 1956, is hereby amended— Amendment of section 19 of Act 25 of 1956.

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

"(1) No society shall insure the life of a child who is under the age of fourteen years for any sum of money which either alone or together with any amount which to the knowledge of the said society is payable on the death of that child by any other society or by any insurer carrying on insurance business within the meaning of the Insurance Act, exceeds—

- (a) one hundred rand, if the child is under six years of age; or
- (b) two hundred rand, if the child is six years old or older, but is under fourteen years of age."; and

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

"(3) The provisions of this section shall not be construed so as to prohibit an insurance which provides for the payment, on the death of any child which is under the age of fourteen years, of a sum not exceeding in the aggregate all the contributions paid in respect of such insurance, plus interest on each contribution at a rate not exceeding seven and a half per cent per annum, compounded annually."

28. Section 20 of the Friendly Societies Act, 1956, is hereby amended— Amendment of section 20 of Act 25 of 1956, as amended by section 15 of Act 80 of 1959.

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

"(2) Assets equal in value to at least forty per cent of the aggregate value of all the assets of a registered society shall, subject to the provisions of subsection (6), be held in the Republic in one or more of the following classes of assets, namely—

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- (a) geld in kas in die Republiek;
  - (b) 'n batige saldo van die betrokke vereniging in 'n rekening of as 'n deposito (behalwe 'n deposito wat verhandelbaar is) by 'n kantoor in die Republiek van 'n bankinstelling geregistreer kragtens die Bankwet, 1965 (Wet No. 23 van 1965), of by 'n bouvereniging geregistreer kragtens die Bouverenigingswet, 1965 (Wet No. 24 van 1965), of by die Nasionale Finansiële Korporasie van Suid-Afrika ingestel kragtens die Wet op die Nasionale Finansiële Korporasie, 1949 (Wet No. 33 van 1949), of by die Posspaarbank;
  - (c) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur die Regering van die Republiek of 'n provinsiale administrasie;
  - (d) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur of deposito's by 'n plaaslike bestuur in die Republiek wat regtens bevoeg is om belastings op onroerende goed te hef;
  - (dA) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur 'n Bantoesake-administrasieraad ingestel kragtens die Wet op die Administrasie van Bantoesake, 1971 (Wet No. 45 van 1971);
  - (e) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur of lenings aan of gewaarborg deur die Randwaterraad of die Elektrisiteitsvoorsieningskommissie;
  - (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 Reserwebank-aandeel;
  - (h) wissels, skuldbriewe of effekte uitgereik deur of lenings aan 'n instelling in die Republiek wat die registrateur, onderworpe aan die voorwaardes wat hy stel, goedgekeur het, en ook wissels, skuldbriewe of effekte uitgereik deur of lenings aan 'n sodanige instelling wat die registrateur insgelyks goedgekeur het;
  - (i) wissels, skuldbriewe of effekte uitgereik deur die regering van of 'n plaaslike bestuur in 'n ander gebied as die Republiek wat die registrateur, onderworpe aan die voorwaardes wat hy stel, goedgekeur het, en ook dié uitgereik deur 'n instelling in so 'n goedgekeurde gebied wat die registrateur insgelyks goedgekeur het.”;
- (b) deur subartikel (3) deur die volgende subartikel te vervang:
- „(3) By die toepassing van subartikel (2)—
- (a) word onder die totale waarde van al die bates van 'n vereniging nie die waarde van enige versekeringspolis uitgereik deur iemand wat wettiglik versekeringsbesigheid binne die bedoeling van die Versekeringswet dryf, ingereken nie;
  - (b) word geag dat van die waarde van 'n geregistreerde vereniging se besit aan onderaandeel in 'n effekte-trustskema soos omskryf in die Wet op

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- (a) money in hand in the Republic;
  - (b) any amount standing to the credit of the society concerned in an account or as a deposit (excluding a negotiable deposit) with an office in the Republic of a banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), or with a building society registered under 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 or loans to or guaranteed by the Government of the Republic or a provincial administration;
  - (d) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by or deposits with any local authority in the Republic authorized by law to levy rates upon immovable property;
  - (dA) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by a Bantu Affairs Administration Board established under the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971);
  - (e) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Rand Water Board or the Electricity Supply Commission;
  - (f) deposits with, or debentures quoted on a stock exchange in the Republic and issued by, the Land and Agricultural Bank of South Africa;
  - (g) South African Reserve Bank stock;
  - (h) bills, bonds or securities issued by or loans to an institution in the Republic, which the registrar has approved subject to such conditions as he may impose, and also bills, bonds or securities issued by or loans to such an institution which the registrar has likewise approved;
  - (i) bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the registrar has approved subject to such conditions as he may impose, and also those issued by an institution in such an approved territory which the registrar has likewise approved.”;
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) For the purposes of subsection (2)—
- (a) the aggregate value of all the assets of a society 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;
  - (b) it shall be deemed that of the value of a registered society's holding of units in a unit trust scheme as defined in the Unit Trusts Control Act, 1947 (Act

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Beheer van Effekte-trustskemas, 1947 (Wet No. 18 van 1947), 'n bedrag gelykstaande met sodanige persentasie, indien daar is, as wat die registrateur van tyd tot tyd mag bepaal, gehou word in bates van die in subartikel (2) vermelde klasse.”; en

- (c) deur subartikel (6) deur die volgende subartikel te vervang:

„(6) Die Minister kan enige vereniging opgerig of gedryf deur 'n godsdienstige inrigting algeheel of gedeeltelik vrystel van voldoening aan die bepalings van subartikel (2), en die registrateur kan, onder buitengewone omstandighede, en op die voorwaardes en vir die tydperke wat hy mag bepaal, enige vereniging tydelik vrystel van voldoening aan enige bepaling van subartikel (2) of (5).”

Invoeging van artikel 22A in Wet 25 van 1956.

29. Die volgende artikel word hierby in die Wet op Onderlinge Hulpverenigings, 1956, na artikel 22 ingevoeg:

„Registrateur kan indiening van rekeninge en ander dokumente in verband met bestuur en administrasie van verenigings gelas.

22A. (1) Die registrateur kan by skriftelike kennisgewing enige persoon wat die besigheid van die bestuur en administrasie van die sake van 'n geregistreerde vereniging dryf, gelas om binne 'n in daardie kennisgewing vermelde tydperk, of binne so 'n verdere tydperk as wat die registrateur mag toelaat, aan hom te verstrek—

- (a) 'n inkomsterekening wat die inkomste verkry uit en die uitgawes aangegaan in verband met sodanige besigheid aantoon;
- (b) enige ander rekening, staat of ander dokument wat op sodanige besigheid betrekking het, en aan hom sodanige verdere inligting in verband met daardie besigheid te verstrek, as wat hy mag verlang.

(2) Die registrateur kan—

- (a) die tydperk bepaal waarop 'n inkomsterekening, ander rekening, staat of ander dokument in subartikel (1) vermeld, betrekking moet hê;
- (b) vereis dat so 'n inkomsterekening, ander rekening, staat of ander dokument betrekking moet hê op die sake van 'n bepaalde geregistreerde vereniging of op die sake van alle geregistreerde verenigings wie se sake deur bedoelde persoon bestuur en geadminestreer word;
- (c) vereis dat so 'n inkomsterekening, ander rekening, staat of ander dokument behoorlik geouditeer moet wees.”

Invoeging van artikel 43A in Wet 25 van 1956.

30. Die volgende artikel word hierby in die Wet op Onderlinge Hulpverenigings, 1956, na artikel 43 ingevoeg:

„Registrateur kan perk op bestuurskoste plaas en grondslag vir berekening daarvan voorskryf.

43A. Die registrateur kan van tyd tot tyd 'n perk plaas op die bestuurskoste wat 'n geregistreerde vereniging gedurende 'n boekjaar mag aangaan, en kan van tyd tot tyd die grondslag voorskryf waarop bestuurskoste gedurende enige boekjaar vir dié doel bereken moet word.”

Wysiging van artikel 48 van Wet 25 van 1956.

31. Artikel 48 van die Wet op Onderlinge Hulpverenigings, 1956, word hierby gewysig—

- (a) deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang:

„(g) die bepalings van artikel 12 of 42 oortree, of versuim om aan 'n voorskrif ingevolge artikel 43A te voldoen of 'n perk wat ingevolge daardie artikel gestel is, oorskry.”; en

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No. 18 of 1947), an amount equal to such percentage, if any, as the Registrar may from time to time determine, is held in assets of the classes referred to in subsection (2); and

(e) by the substitution for subsection (6) of the following subsection:

“(6) The Minister may exempt either wholly or in part any society established or conducted by a religious institution from compliance with the provisions of subsection (2), and the registrar may, under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any society from compliance with any provision of subsection (2) or (5).”

29. The following section is hereby inserted in the Friendly Societies Act, 1956, after section 22:

Insertion of section 22A in Act 25 of 1956.

“Registrar may order submission of accounts and other documents in connection with control and administration of societies.

22A. (1) The registrar may by notice in writing direct any person carrying on the business of the control and administration of the affairs of a registered society to furnish him within a period stated in such notice, or within such further period as the registrar may allow, with—

- (a) a revenue account showing the income derived from and the expenses incurred in connection with such business;
- (b) any other account, statement or other document relating to such business,

and with such further information in connection with such business as he may require.

(2) The registrar may—

- (a) determine the period to which a revenue account, other account, statement or other document referred to in subsection (1) shall relate;
- (b) require that such revenue account, other account, statement or other document shall relate to the affairs of a particular registered society or to the affairs of all registered societies of which the affairs are controlled and administered by the said person;
- (c) require that such revenue account, other account, statement or other document shall be duly audited.”

30. The following section is hereby inserted in the Friendly Societies Act, 1956, after section 43:

Insertion of section 43A in Act 25 of 1956.

“Registrar may impose limit on expenses of management and prescribe basis for calculation thereof.

43A. The registrar may from time to time impose a limit on the expenses of management which a registered society may incur during any financial year, and may from time to time prescribe the basis on which expenses of management shall during any financial year be calculated for that purpose.”

31. Section 48 of the Friendly Societies Act, 1956, is hereby amended—

Amendment of section 48 of Act 25 of 1956.

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

“(g) contravenes the provisions of section 12 or 42, or fails to comply with a directive in terms of section 43A or exceeds a limit imposed in terms of that section;” and

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- (b) deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Sonder dat daardeur aan die bepalings van subartikel (1) afgedoen word, kan 'n persoon wat versuim het om 'n opgawe te verstrek of 'n skema, verslag, rekening, staat of ander dokument te verstrek of in te dien binne die tydperk voorgeskryf by of kragtens hierdie Wet, daarna sodanige opgawe verstrek of sodanige skema, verslag, rekening, staat of ander dokument verstrek of indien onderworpe aan die betaling van 'n boete wat by regulasie voorgeskryf is.”

Wysiging van artikel 1 van Wet 68 van 1962.

32. Artikel 1 van die Wet op Inspeksie van Finansiële Instellings, 1962, word hierby gewysig deur die woorde „of 'n persoon wat die besigheid van die bestuur en administrasie van die sake van so 'n onderlinge hulpvereniging dryf” by die omskrywing van „finansiële instelling” te voeg.

Wysiging van artikel 3 van Wet 48 van 1964, soos gewysig deur artikel 9 van Wet 91 van 1972.

33. Artikel 3 van die Wet op Deelnemingsverbande, 1964, word hierby gewysig deur paragraaf (a) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragraaf te vervang:

- „(a) indien 'n deelneming nie binne sestig dae vanaf die datum van die ontvangs van daardie geld of binne die verdere tydperk wat die registrateur in 'n bepaalde geval toelaat, toegeken word nie, die geld terugbetaal moet word aan die persoon van wie dit ontvang is; en”

Wysiging van artikel 6 van Wet 48 van 1964, soos gewysig deur artikel 2 van Wet 98 van 1967 en artikel 10 van Wet 91 van 1972.

34. Artikel 6 van die Wet op Deelnemingsverbande, 1964, word hierby gewysig—

- (a) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:
- „(b) So 'n houer is nie geregtig om sy reg op terugbetaling van die hoofskuld deur die verband gesekureer, uit te oefen nie tensy—
- (i) die verbandgewer in gebreke bly om aan die voorwaardes van die verband te voldoen; of
- (ii) behoudens die bepalings en voorwaardes van die verband, hy saam met ander sodanige houers wat, tesame met hom, 'n meerderheid in waarde van die deelnemings in die verband hou, die bestuurder skriftelik gelas om so 'n bedrag van die hoofskuld van die verbandgewer te verhaal as wat nodig is om sy deelneming en die deelnemings van sodanige ander houers ten volle terug te betaal of die bestuurder, nadat so 'n opdrag gegee is, in gebreke bly om binne ses maande vanaf die datum van ontvangs daarvan uitvoering daaraan te gee: Met dien verstande dat in 'n geval waar die reg op sodanige terugbetaling verkry is op of na die datum van inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1972, 'n houer nie voordat die betrokke tydperk van vyf jaar bedoel in paragraaf (b) (ii) van die voorbehoudsbepaling by artikel 3 (1) of in artikel 3 (3) (d), na gelang van die geval, verstryk het, geregtig is om deel te neem aan so 'n opdrag aan die bestuurder nie.”; en



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- (b) by the substitution for subsection (2) of the following subsection:

“(2) Without derogation from the provisions of subsection (1), a person who has failed to make a return or to transmit or deposit a scheme, report, account, statement or other document within the time prescribed by or under this Act, may thereafter furnish such return or transmit or deposit such scheme, report, account, statement or other document subject to the payment of a penalty prescribed by regulation.”.

32. Section 1 of the Inspection of Financial Institutions Act, 1962, is hereby amended by the addition to the definition of “financial institution” of the words “or a person carrying on the business of the control and administration of the affairs of such a friendly society.”. Amendment of section 1 of Act 68 of 1962.

33. Section 3 of the Participation Bonds Act, 1964, is hereby amended by the substitution for paragraph (a) of the proviso to subsection (1) of the following paragraph: Amendment of section 3 of Act 48 of 1964, as amended by section 9 of Act 91 of 1972.

- “(a) if a participation is not granted within sixty days as from the date of acceptance of such money or within such further period as the Registrar may allow in a particular case, the money shall be refunded to the person from whom it was accepted; and”.

34. Section 6 of the Participation Bonds Act, 1964, is hereby amended— Amendment of section 6 of Act 48 of 1964, as amended by section 2 of Act 98 of 1967 and section 10 of Act 91 of 1972.

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

- “(b) Such a holder shall not be entitled to enforce his right to repayment of the principal debt secured by the bond unless—

(i) the mortgagor fails to comply with the conditions of the bond; or

(ii) subject to the terms and conditions of the bond, he, together with any other such holders who, together with him, hold a majority in value of the participations in the bond, instruct the manager in writing to recover from the mortgagor such portion of the principal debt as is necessary to repay in full his participation and the participations of such other holders or, such an instruction having been given, the manager fails to comply therewith within six months of the date of receipt thereof: Provided that in a case where the right to such repayment was acquired on or after the date of commencement of the Financial Institutions Amendment Act, 1972, a holder shall not be entitled to take part in so instructing the manager before the period of five years in question referred to in paragraph (b) (ii) of the proviso to section 3 (1) or in section 3 (3) (d), as the case may be, has elapsed.”; and

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(b) deur subartikel (6) deur die volgende subartikel te vervang:

„(6) 'n Deelnemer het die reg om sonder die toestemming van die verbandgewer sy regte in 'n deelnemingsverband oor te dra, te sedgeer of te beswaar, mits—

(a) hy vooraf die skriftelike toestemming van die bestuurder tot sodanige oordrag, sessie of beswaring verkry het; en

(b) in die geval van sodanige oordrag of sessie—

(i) hy sy regte in sodanige deelnemingsverband voor die datum van inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1972, verkry het; of

(ii) waar hy sy regte in sodanige deelnemingsverband op of na die datum van inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1972, verkry het, die bedrag geld wat aan hom verskuldig is ingevolge die deelneming waarby genoemde regte verleen word, tot op die datum van oordrag of sessie en vir 'n deurlopende tydperk van minstens vyf jaar op sy naam in die skema belê was; of

(iii) die registrateur sodanige oordrag of sessie goedkeur.”.

Invoeging van artikel 8A in Wet 48 van 1964.

35. Die volgende artikel word hierby in die Wet op Deelnemingsverbanne, 1964, na artikel 8 ingevoeg:

„Same-smelting van benoemde maatskappye, en sessie of oordrag van deelnemingsverbanne.

8A. (1) Twee of meer benoemde maatskappye mag nie saamsmelt nie, en geen regte van so 'n maatskappy ingevolge 'n deelnemingsverband wat op sy naam geregistreer is, mag aan 'n ander benoemde maatskappy gesedgeer of oorgedra word deur 'n ander benoemde maatskappy oorgeneem word nie, behalwe met die vooraf verkreeë skriftelike toestemming van en op die voorwaardes voorgeskryf deur die Registrateur, en geen sodanige toestemming word deur die Registrateur verleen nie, tensy hy oortuig is dat die betrokke transaksie nie die deelnemers in die betrokke verband nadelig sal raak nie.

(2) Wanneer 'n in subartikel (1) bedoelde transaksie van krag word—

(a) gaan, in die geval van 'n samesmelting, al die regte en verpligtings van 'n samesmeltende benoemde maatskappy ingevolge die deelnemingsverbanne op sy naam geregistreer, of, in die geval van 'n sessie of oordrag van regte ingevolge 'n deelnemingsverband, al die regte en verpligtings van die benoemde maatskappy wat die sessie of oordrag verleen, oor op en word dit bindend vir die nuwe benoemde maatskappy of, na gelang van die geval, die benoemde maatskappy wat bedoelde regte en verpligtings ingevolge sulke verbanne oorneem;

(b) het, in die geval van 'n samesmelting, die nuwe benoemde maatskappy of, in die geval van 'n sessie of oordrag van regte en verpligtings ingevolge deelnemingsverbanne, die benoemde maatskappy wat bedoelde regte en verpligtings oorneem, dieselfde regte en is hy onderworpe aan

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- (b) by the substitution for subsection (6) of the following subsection:

“(6) A participant shall have the right to transfer, cede or encumber his rights in a participation bond without the consent of the mortgagor, provided—

(a) he has obtained the prior written consent of the manager to such transfer, cession or encumbrance; and

(b) in the case of any such transfer or cession—

(i) he acquired his rights in such participation bond before the date of commencement of the Financial Institutions Amendment Act, 1972; or

(ii) where he acquired his rights in such participation bond on or after the date of commencement of the Financial Institutions Amendment Act, 1972, the amount of money which is due to him in terms of the participation by which the said rights are conferred, had been invested in his name in the scheme up to the date of transfer or cession and for a continuous period of not less than five years; or

(iii) the registrar approves such transfer or cession.”

35. The following section is hereby inserted in the Participation Bonds Act, 1964, after section 8:

Insertion of section 8A in Act 48 of 1964.

“Amalgamation of nominee companies, and cession or transfer of participation bonds.

8A. (1) Two or more nominee companies shall not amalgamate, nor shall any rights of any such company under any participation bond registered in its name be ceded or transferred to or taken over by any other nominee company, except with the prior written consent of and on the conditions prescribed by the Registrar, and no such consent shall be given by the Registrar unless he is satisfied that the transaction in question will not be detrimental to the participants in the bond in question.

(2) Upon the coming into effect of a transaction such as is referred to in subsection (1)—

(a) in the case of an amalgamation, all the rights and obligations of an amalgamating nominee company in terms of the participation bonds registered in its name, or, in the case of a cession or transfer of rights in terms of any participation bond, all the rights and obligations of the nominee company by which the cession or transfer is given, shall vest in and become binding upon the new nominee company or, as the case may be, the nominee company taking over such rights and obligations in terms of such bonds;

(b) in the case of an amalgamation, the new nominee company or, in the case of a cession or transfer of rights and obligations in terms of any participation bonds, the nominee company taking over such rights and obligations, shall have the same rights and be subject to

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dieselfde verpligtings as wat onmiddellik voor die samesmelting, sessie of oordrag by die samesmeltende benoemde maatskappy of, na gelang van die geval, die benoemde maatskappy wat die sessie of oordrag verleen het, berus het of vir hom bindend was;

- (c) bly alle ooreenkomste, transaksies en stukke aangegaan, opgestel of verly ten opsigte van 'n skema deur, met of ten gunste van 'n samesmeltende benoemde maatskappy, of, na gelang van die geval, die benoemde maatskappy wat die sessie of oordrag verleen het en wat van krag was onmiddellik voor die samesmelting, sessie of oordrag, ten volle van krag en word dit vir alle doeleindes uitgelê asof dit aangegaan, opgestel of verly was deur, met of ten gunste van die nuwe benoemde maatskappy of, na gelang van die geval, die benoemde maatskappy wat die regte kragtens die deelnemingsverband oorgeneem het.

(3) Die bepalings van subartikel (2) is *mutatis mutandis* van toepassing op—

- (a) enige kollaterale sekuriteit wat deur 'n bestuurder aanvaar is vir 'n skuld gesekureer ingevolge 'n deelnemingsverband geregistreer op naam van 'n samesmeltende benoemde maatskappy of, na gelang van die geval, op naam van die benoemde maatskappy wat sy regte ingevolge 'n deelnemingsverband sedeer of oordra en wat van krag was onmiddellik voor die samesmelting, sessie of oordrag;
- (b) kontant wat onmiddellik voor die samesmelting, sessie of oordrag ingevolge artikel 9 (4A) op deposito gehou was op naam van 'n samesmeltende benoemde maatskappy of, na gelang van die geval, op naam van die benoemde maatskappy wat sy regte ingevolge 'n deelnemingsverband sedeer of oordra; en
- (c) die ooreenkoms bedoel in paragraaf (c) van die omskrywing van benoemde maatskappy in artikel 1.

(4) Die beampte in beheer van 'n registrasiekantoor van aktes waarin 'n deelnemingsverband geregistreer is ten gunste van 'n benoemde maatskappy wat met 'n ander benoemde maatskappy saamgesmelt het of, na gelang van die geval, wat al sy regte ingevolge daardie deelnemingsverband aan 'n ander benoemde maatskappy gesedeer of oorgedra het, moet, by oorlegging van die skriftelike toestemming van die Registrateur in die registrasie van die samesmelting, sessie of oordrag, en by oorlegging aan hom deur die betrokke benoemde maatskappy van daardie verband, en sonder betaling van seëlregte of registrasiegeld of -koste, die endossemente op daardie verband aanbring en die inskrywings in sy registers doen wat nodig is om die sessie of oordrag van bedoelde verband en van enige regte daarkragtens aan die nuwe benoemde maatskappy of, na gelang van die geval, die benoemde maatskappy wat bedoelde regte aldus oorgeneem het, te boekstaaf.

(5) 'n Samesmelting van benoemde maatskappye of 'n sessie of oordrag van regte kragtens 'n deelnemingsverband ingevolge hierdie artikel raak nie die regte nie van 'n deelnemer in 'n deelnemingsverband geregistreer op naam van enige van die betrokke benoemde maatskappye en verander nie die voorwaardes nie waarop 'n deelneming toegestaan

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the same obligations as were immediately before the amalgamation, cession or transfer vested in or binding upon the amalgamating nominee companies or, as the case may be, the nominee company by which such cession or transfer has been effected;

- (c) all agreements, transactions and documents made, entered into, drawn up or executed in respect of a scheme by, with or in favour of an amalgamating nominee company or, as the case may be, the nominee company by which the cession or transfer has been given, and in force immediately prior to the amalgamation, cession or transfer, shall remain of full force and effect and shall be construed for all purposes as if they had been made, entered into, drawn up or executed by, with or in favour of the new nominee company or, as the case may be, the nominee company taking over the rights under the participation bond.

(3) The provisions of subsection (2) shall apply *mutatis mutandis* to—

- (a) any collateral security accepted by a manager for a debt secured in terms of a participation bond registered in the name of an amalgamating nominee company or, as the case may be, in the name of the nominee company ceding or transferring its rights in terms of a participation bond and which was in force immediately prior to the amalgamation, cession or transfer;
- (b) any cash which immediately prior to the amalgamation, cession or transfer was held on deposit in terms of section 9 (4A) in the name of an amalgamating nominee company or, as the case may be, in the name of the nominee company ceding or transferring its rights in terms of a participation bond; and
- (c) the agreement referred to in paragraph (c) of the definition of nominee company in section 1.

(4) The officer in charge of a deeds registry in which is registered any participation bond in favour of any nominee company which has amalgamated with any other nominee company or, as the case may be, which has ceded or transferred all its rights in terms of that participation bond to any other nominee company shall, upon production of the written consent of the Registrar to the registration of the amalgamation, cession or transfer, and upon production to him by the nominee company concerned of such bond, and without payment of stamp duty or registration fees or charges, make such endorsements upon such bond and such entries in his registers as are necessary to record the cession or transfer thereof, and of any rights thereunder to the new nominee company or, as the case may be, the nominee company which has so taken over the said rights.

(5) An amalgamation of nominee companies or a cession or transfer of rights under a participation bond in terms of this section shall not affect the rights of a participant in a participation bond registered in the name of any of the nominee companies concerned, or alter the conditions on which a participation was granted: Provided that

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is: Met dien verstande dat die bepalings van hierdie subartikel nie 'n bestuurder verbied om die reëls van die skema, soos van toepassing op enige bepaalde deelnemingsverband, met die skriftelike toestemming van al die deelnemers daarin en van die Registrateur te wysig nie."

Wysiging van artikel 9 van Wet 48 van 1964, soos gewysig deur artikel 3 van Wet 98 van 1967 en artikel 11 van Wet 91 van 1972.

36. Artikel 9 van die Wet op Deelnemingsverbande, 1964, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

„(5) Die reëls van die skema soos van toepassing op 'n bepaalde deelnemingsverband mag nie sonder die skriftelike toestemming van al die deelnemers daarin en die bestuurder verander word nie: Met dien verstande dat indien die registrateur oortuig is dat 'n verandering van sodanige reëls nie die belange van deelnemers sal benadeel nie en nie 'n fundamentele bepaling van dié reëls verander en nie die uitwerking het om die bestuurder of die benoemde maatskappy of die verbandgewer van enige verantwoordelikheid teenoor deelnemers te onthef nie of dat die wysiging nodig is om daardie reëls aan die bepalings van hierdie Wet te laat voldoen, kan hy gelas dat sodanige toestemming nie verkry hoef te word nie."

Wysiging van artikel 1 van Wet 23 van 1965, soos gewysig deur artikel 12 van Wet 91 van 1972.

37. Artikel 1 van die Bankwet, 1965, word hierby gewysig—

(a) deur in subartikel (1)—

(i) na die omskrywing van „algemene bank” die volgende omskrywing in te voeg:

„bankbeheermaatskappy’, behoudens die bepalings van subartikel (2B), 'n maatskappy, uitgesonderd 'n bankinstelling wat kragtens hierdie Wet geregistreer is, wat regstreeks of onregstreeks in staat is om 'n bankinstelling te beheer, en het 'beheerde' en 'beherende' ooreenstemmende betekenis;”;

(ii) na die omskrywing van „bankinstelling” die volgende omskrywings in te voeg:

„beherende maatskappy’, met betrekking tot 'n bankinstelling, 'n bankbeheermaatskappy en 'n beherende bankinstelling;

binnelandse aandeelhouer’ 'n aandeelhouer wat een van onderstaande is:

(a) 'n inwoner van die Republiek;

(b) 'n binnelandse maatskappy;

(c) 'n pensioenfonds wat ingevolge die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), geregistreer is, uitgesonderd 'n pensioenfonds waar die hoofkantoor van die vereniging wat die besigheid van daardie fonds dryf, of van elke werkgewer wat 'n party by daardie fonds is, buite die Republiek is;

(d) 'n onderlinge hulpvereniging wat ingevolge die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956), geregistreer is;

(e) 'n vereniging wat in die Republiek geïnkorporeer is en wat 'n onderlinge versekeraar is soos in die Versekeringswet, 1943 (Wet No. 27 van 1943), omskryf;

(f) 'n persoon wat deur die registrateur as binnelandse aandeelhouer goedgekeur is;

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nothing in this subsection contained shall prohibit a manager from altering the rules of the scheme, as applicable to any particular participation bond, with the consent in writing of all the participants therein and of the Registrar.”

36. Section 9 of the Participation Bonds Act, 1964, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) The rules of the scheme as applicable to any particular participation bond may not be altered without the consent in writing of all the participants therein and the manager: Provided that if the registrar is satisfied that an alteration of such rules will not prejudice the interests of participants and does not alter a fundamental provision of such rules and does not operate to release the manager or the nominee company or the mortgagor from any responsibility to participants, or that the alteration is necessary to enable such rules to comply with the provisions of this Act, he may direct that such consent be dispensed with.”

Amendment of section 9 of Act 48 of 1964, as amended by section 3 of Act 98 of 1967 and section 11 of Act 91 of 1972.

37. Section 1 of the Banks Act, 1965, is hereby amended—

(a) by the insertion in subsection (1)—

(i) before the definition of “banking institution” of the following definitions:

“‘associate’, in connection with a person, means the controlling company (if any) or a subsidiary company of that person, a subsidiary company of any of the said companies, a controlling shareholder of that person or such a shareholder of his controlling company, and a business partner of that person, and, in connection with a company, includes any director or officer of such company;

‘bank controlling company’ means, subject to the provisions of subsection (2B), a company, excluding a banking institution registered under this Act, which can directly or indirectly control a banking institution, and ‘controlled’ and ‘controlling’ have corresponding meanings;”

(ii) after the definition of “commercial bank” of the following definition:

“‘controlling company’, in relation to a banking institution, means a bank controlling company and a controlling banking institution;”

(iii) after the definition of “discount house” of the following definitions:

“‘domestic company’ means a company which has been incorporated in the Republic, in which residents of the Republic directly or indirectly hold shares which in the aggregate are equal to at least fifty per cent of all the issued shares in the company, and which is not controlled by persons who are not residents of the Republic;

‘domestic shareholder’ means a shareholder who is:

(a) a resident of the Republic;

(b) a domestic company;

(c) a pension fund registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), excluding a pension fund where the head office of the association which

Amendment of section 1 of Act 23 of 1965, as amended by section 12 of Act 91 of 1972.

- en het ‚binnelandse aandeelhouding’ ’n ooreenstemmende betekenis;
- ‚binnelandse maatskappy’ ’n maatskappy wat in die Republiek geïnkorporeer is, waarin inwoners van die Republiek regstreeks of onregstreeks aandele hou wat in totaal gelyk is aan minstens vyftig persent van al die uitgereikte aandele in die maatskappy, en wat nie beheer word nie deur persone wat nie inwoners van die Republiek is nie;
- ‚buitelandse aandeelhouer’ ’n ander aandeelhouer as ’n binnelandse aandeelhouer, en het ‚buitelandse aandeelhouding’ ’n ooreenstemmende betekenis;”;
- (iii) na die omskrywing van „diskontohuis” die volgende omskrywings in te voeg:
- „‚filiaalmaatskappy’ ’n maatskappy ten opsigte waarvan ’n ander regspersoon in staat is om regstreeks of onregstreeks beheer uit te oefen op die wyse in die woordomskrywing van ‚bankbeheermaatskappy’ beoog;
- ‚finansiële maatskappy’—
- (a) ’n binnelandse maatskappy waarvan die besigheid hoofsaaklik uit die maak van beleggings bestaan en wat die registrateur met inagneming van sy aandeelverspreiding en beheer skriftelik goedgekeur het;
- (b) ’n versekeraar wat ingevolge die Versekeringswet, 1943 (Wet No. 27 van 1943), geregistreer is en ooreenkomstig daardie Wet ’n binnelandse versekeraar is, of die beherende maatskappy (indien daar een is) van so ’n versekeraar indien hy in die Republiek geïnkorporeer is en hoofsaaklik versekeringsbesigheid bedryf, wat deur die registrateur skriftelik goedgekeur is onderworpe aan die voorwaardes wat hy bepaal;
- ‚geassosieerde’, in verband met ’n persoon, die beherende maatskappy (indien daar een is) of ’n filiaalmaatskappy van daardie persoon, ’n filiaalmaatskappy van enige van genoemde maatskappye, ’n beherende aandeelhouer van daardie persoon of so ’n aandeelhouer van sy beherende maatskappy, ’n sakevennoot van daardie persoon en, in verband met ’n maatskappy, ook ’n direkteur of amptenaar van daardie maatskappy;”;
- (iv) na die omskrywing van „huurkoopbank” die volgende omskrywing in te voeg:
- „‚inwoner van die Republiek’ iemand wat in die Republiek woonagtig is en wat ’n Suid-Afrikaanse burger is of in besit is van ’n permit vir blywende vestiging in die Republiek, uitgereik kragtens die Wet op Vreemdelinge, 1937 (Wet No. 1 van 1937);”;
- (b) deur in genoemde subartikel (1)—
- (i) paragraaf (j) van die omskrywing van „likwiede bates” deur die volgende paragraaf te vervang:
- „(j) obligasies of notas uitgereik deur die Nywerheid-ontwikkelingskorporasie van Suid-Afrika, Beperk, in verband met ’n skema om die uitvoer van kapitaalgoedere te finansier en wat ’n oorblywende termyn tot die vervaldatum daarvan van hoogstens drie jaar het;”;



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carries on the business of such fund or of every employer who is a party to such fund, is outside the Republic;

- (d) a friendly society registered in terms of the Friendly Societies Act, 1956 (Act No. 25 of 1956);
- (e) a society incorporated in the Republic and which is a mutual insurer as defined in the Insurance Act, 1943 (Act No. 27 of 1943);
- (f) any person approved by the registrar as a domestic shareholder;

and 'domestic shareholding' has a corresponding meaning;

'financial company' means—

- (a) a domestic company the business of which consists mainly of the making of investments and which the registrar with due regard to its spread of shares and its control, has approved in writing;
- (b) an insurer registered under the Insurance Act, 1943 (Act No. 27 of 1943), and which in terms of that Act is a domestic insurer, or the controlling company (if any) of such insurer if it is incorporated in the Republic and mainly conducts insurance business which has been approved, in writing, by the registrar subject to such conditions as he may determine;

'foreign shareholder' means any shareholder other than a domestic shareholder, and 'foreign shareholding' has a corresponding meaning;";

- (iv) after the definition of "Reserve Bank" of the following definition:

"'resident of the Republic' means a person resident in the Republic and who is a South African citizen or is in possession of a permit for permanent residence in the Republic, issued in terms of the Aliens Act, 1937 (Act No. 1 of 1937);";

- (v) after the definition of "short-term liability" of the following definition:

"'subsidiary company' means a company in respect of which any other juristic person can directly or indirectly exercise control in the manner contemplated in the definition of 'bank controlling company';";

- (b) by the substitution in the said subsection (1)—

- (i) for paragraph (j) of the definition of "liquid assets" of the following paragraph:

"(j) debentures or notes issued by the Industrial Development Corporation of South Africa, Limited, in connection with a scheme for financing the export of capital goods and which have a maturity of not more than three years;";

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- (ii) die omskrywing van „onaangetaste reserwefondse” deur die volgende omskrywing te vervang:
- „onaangetaste reserwefondse’ alle fondse (afgesien van ’n fonds in artikel 45 vermeld, en ’n fonds wat volgens ander wetsbepalings in stand gehou moet word) wat uit werklike verdienste, invorderings, premies op aandele, of winste voortspruitende uit die tegeldemaak van kapitaalbate, opgebou is, en as ’n algemene of besondere reserwe afgesonder is en in die betrokke instelling se finansiële state as sodanig geopenbaar word, en vir die nakoming van verpligtings teenoor die publiek volgens hierdie Wet beskikbaar is;”;
- (c) deur in genoemde subartikel (1)—
- (i) die woord „en” aan die end van paragraaf (e) van die omskrywing van „voorgeskrewe beleggings” te skrap en na daardie paragraaf die volgende paragraaf in te voeg:
- „(eA) wissels, skuldbriewe of effekte uitgereik deur of lenings aan ’n Bantoesake-administrasieraad ingestel ingevolge die Wet op die Administrasie van Bantoesake, 1971 (Wet No. 45 van 1971);”;
- (ii) na paragraaf (f) van die omskrywing van „voorgeskrewe beleggings” die woord „en” en die volgende paragraaf in te voeg:
- „(g) wissels, skuldbriewe of effekte uitgereik deur die regering van of ’n plaaslike bestuur in ’n ander gebied as die Republiek wat die registrateur by kennisgewing in die *Staatskoerant* en onderworpe aan die voorwaardes wat hy in sodanige kennisgewing uiteensit, vir die doeleindes van hierdie omskrywing goedkeur, en dié uitgereik deur ’n instelling in so ’n goedgekeurde gebied wat hy insgeliks goedkeur.”;
- (d) deur subartikels (2), (2A) en (4) deur die volgende subartikels te vervang:
- „(2) ’n Persoon word by die toepassing van hierdie Wet geag die bedryf van ’n bankinstelling uit te oefen indien hy—
- (a) die neem van deposito’s as bedryf uitoefen; of
- (b) geld van die algemene publiek verkry op ’n wyse wat die Registrateur, na oorleg met die President van die Reserwebank, by kennisgewing in die *Staatskoerant* verklaar het as ’n wyse van verkryging van geld vir die doeleindes van die uitoefening van die bedryf van ’n bankinstelling, en die geld aldus verkry, aanwend om geldlenings of krediet (uitgesonderd gebruiklike krediet ten opsigte van die verkoop van goedere of die lewering van dienste deur hom) aan die algemene publiek te verstrek of om verhuring- of faktore-ringbesigheid te dryf.
- (2A) ’n Persoon word by die toepassing van hierdie Wet geag die neem van deposito’s as bedryf uit te oefen—
- (a) indien dit, na die Registrateur se oordeel, ’n staande kenmerk van sy besigheid is om deposito’s van die algemene publiek te neem; of
- (b) indien hy sodanige deposito’s werf of daarvoor advertteer;
- al word bedoelde deposito’s tot vasgestelde bedrae beperk of al word sertifikate of ander stukke ten

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(ii) for paragraph (e) of the definition of "prescribed investments" of the following paragraph:

"(e) debentures of the Land Bank, other than such debentures mentioned in the definition of 'liquid assets';";

(iii) for the definition of "unimpaired reserve funds" of the following definition:

"unimpaired reserve funds' means all funds (other than a fund mentioned in section 45 and any fund required to be maintained in terms of any other law) which have been built up out of actual earnings, recoveries, premiums on shares or profits resulting from the realization of capital assets and have been set aside as a general or special reserve and are disclosed as such in the financial statements of the institution concerned, and are available for the purpose of meeting liabilities to the public under this Act.";

(c) by the insertion in the said subsection (1)—

(i) after paragraph (e) of the definition of "prescribed investments" of the following paragraph:

"(eA) bills, bonds or securities issued by or loans to a Bantu Affairs Administration Board established in terms of the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971);";

(ii) after paragraph (f) of the definition of "prescribed investments" of the word "and" and the following paragraph:

"(g) bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the registrar may by notice in the *Gazette* approve for purposes of this definition subject to such conditions as he may specify in such notice, and also those issued by an institution in such approved territory which he may likewise approve;"

(d) by the substitution for subsections (2), (2A) and (4) of the following subsections:

"(2) A person shall for the purposes of this Act be deemed to be carrying on the business of a banking institution if he—

(a) carries on the business of accepting deposits; or

(b) obtains money from the general public in a manner which the Registrar, after consultation with the Governor of the Reserve Bank, has by notice in the *Gazette* declared to be a manner of obtaining money for the purpose of the carrying on of the business of a banking institution, and uses any money so obtained to grant money loans or credit (other than customary credit in respect of the sale of goods or provision of services by him) to the general public or to conduct leasing or factoring business.

(2A) A person shall for the purposes of this Act be deemed to be carrying on the business of accepting deposits—

(a) if in the opinion of the Registrar he accepts, as a regular feature of his business, deposits from the general public; or

(b) if he solicits or advertises for such deposits; notwithstanding that such deposits are limited to fixed amounts or that certificates or other instruments

opsigte van bedoelde bedrae uitgereik wat voorsiening maak vir die terugbetaling aan die houer daarvan, hetsy voorwaardelik of onvoorwaardelik, van die bedrae van die deposito's op bepaalde of onbepaalde datums of vir die betaling van rente op die gedeponeerde bedrae met bepaalde tussenpose of andersins of al is genoemde sertifikate oordraagbaar: Met dien verstande dat—

- (i) werknemers, met betrekking tot die persoon by wie hulle in diens is, geag word deel van die algemene publiek uit te maak;
- (ii) deposito's geag word lenings in te sluit wat aangegaan is—
  - (aa) sonder sekuriteit; of
  - (bb) teen sekuriteit van wissels, promesses, huurkoopkontrakte, verhuringskontrakte of soortgelyke handelspapier; of
  - (cc) teen ander sekuriteit as dié in subparagraaf (bb) genoem en wat volgens die oordeel van die Registrateur ontoereikend of andersins onbevredigend is;
- (iii) 'n persoon (met inbegrip van 'n koöperatiewe vereniging) behalwe 'n persoon wat deposito's werf of daarvoor adverteer, nie geag word die neem van deposito's as bedryf uit te oefen nie indien hy nie te eniger tyd deposito's van meer as twintig persone of deposito's wat in totaal meer as vyfhonderdduisend rand bedra, hou nie;
- (iv) 'n persoon en 'n persoon wat regstreeks of onregstreeks deur hom beheer word (ongeag of sodanige beheer by wyse van aandeelhouding of andersins geskied) of deur hom geadministreer word, en 'n filiaal van laasgenoemde persoon, wat deposito's aanneem, vir doeleindes van paragraaf (iii) geag word een persoon te wees;
- (v) 'n koöperatiewe vereniging nie bloot op grond van die feit dat hy ooreenkomstig die bepalings van subartikel (3) van sy lede geld leen, geag word sodanige bedryf uit te oefen nie;
- (vi) die aanname van geld teen skuldbriewe, ooreenkomstig die bepalings van die Maatskappywet, 1973 (Wet No. 61 van 1973), uitgereik, indien die geld nie vir die toestaan van geldlenings of die verlening van krediet (uitgesonderd gebruikelike krediet ten opsigte van die verkoop van goedere of die lewering van dienste deur die uitreiker van die skuldbriewe) aan die algemene publiek of vir die dryf van verhuring- of faktoreringbesigheid aangewend word nie, nie geag word die neem van deposito's as bedryf te wees nie.

(2B) In die besonder en sonder om afbreuk te doen aan die algemene betekenis van 'beheer' in die omskrywing van 'bankbeheermaatskappy' in subartikel (1), word 'n maatskappy geag 'n bankinstelling te beheer indien—

- (a) hy tesame met sy geassosieerdes aandeel in die bankinstelling hou waarvan die totale nominale waarde meer as vyftig persent van die nominale waarde van al die uitgereikte aandeel van die bankinstelling verteenwoordig, behalwe waar in so 'n geval vanweë beperkings op die stemregte verbonde aan aandeel die maatskappy en sy geassosieerdes nie beheer oor die bankinstelling kan uitoefen nie; of
- (b) hy geregtig is om regstreeks of onregstreeks meer as vyftig persent van die stemregte ten opsigte van die uitgereikte aandeel van daardie bankinstelling uit te oefen; of

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are issued in respect of any such amounts providing for the repayment to the holder thereof, either conditionally or unconditionally, of the amounts of the deposits at specified or unspecified dates or for the payment of interest on the amounts deposited at specified intervals or otherwise, or that such certificates are transferable: Provided that—

- (i) employees, in relation to the person by whom they are employed, shall be deemed to constitute part of the general public;
- (ii) deposits shall be deemed to include loans entered into—
  - (aa) without security; or
  - (bb) against security of bills, promissory notes, hire purchase contracts, leasing contracts or similar commercial paper; or
  - (cc) against security other than that mentioned in subparagraph (bb) and which in the opinion of the Registrar is insufficient or otherwise unsatisfactory;
- (iii) a person (including a co-operative society) other than a person who solicits or advertises for deposits, shall not be deemed to be carrying on the business of accepting deposits if he does not at any time hold deposits from more than twenty persons or deposits amounting in the aggregate to more than five hundred thousand rand;
- (iv) a person and any person controlled directly or indirectly by him (whether such control is by shareholding or otherwise) or administered by him and a subsidiary of such last-mentioned person, who accepts deposits shall for purposes of paragraph (iii) be deemed to be one person;
- (v) a co-operative society shall not be deemed to be carrying on such business by reason only of the fact that it borrows money from its members in accordance with the provisions of subsection (3);
- (vi) the acceptance of money against debentures issued in accordance with the provisions of the Companies Act, 1973 (Act No. 61 of 1973), shall not be deemed to be the business of accepting deposits if the money is not being used for granting money loans or credit (other than customary credit in respect of the sale of goods or provision of services by the issuer of the debentures) to the general public or for conducting the business of leasing or factoring.

(2B) In particular and without prejudice to the generality of the meaning of 'control' in the definition of 'bank controlling company' in subsection (1), a company shall be deemed to control a banking institution if—

- (a) it, together with its associates, holds shares in the banking institution of which the total nominal value represents more than fifty per cent of the nominal value of all the issued shares of the banking institution, except where, in such a case, the company and its associates on account of limitations on the voting rights attached to shares cannot exercise control over the banking institution; or
- (b) it is entitled to exercise directly or indirectly more than fifty per cent of the voting rights in respect of the issued shares of that banking institution; or

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(c) hy gerogtig is of die bevoegdheid het om regstreeks of onregstreeks die aanstelling van die meerderheid van die direkteure van daardie bankinstelling te bepaal, met inbegrip van—

(i) die bevoegdheid om sonder die toestemming of instemming van 'n ander persoon al of die meerderheid van sodanige direkteure aan te stel of af te dank;

(ii) die bevoegdheid om te verhinder dat iemand sonder sy toestemming as direkteur aangestel word,

en indien iemand se aanstelling as direkteur van die bankinstelling noodwendig volg uit sy aanstelling as direkteur van bedoelde maatskappy, word eersgenoemde aanstelling vir die doeleindes van hierdie subartikel geag 'n aanstelling uit hoofde van 'n bevoegdheid van daardie maatskappy te wees.

(4) Indien 'n ander persoon as 'n geregistreerde bankinstelling voor die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, geld verkry het, hetsy teen die uitreiking van skuldbriewe of andersins, en bedoelde verkryging ooreenkomstig subartikel (2A) as die neem van deposito's as bedryf geag word, kan hy deur die Registrateur toegelaat word om op die voorwaardes en vir die tydperk wat die Registrateur bepaal, die uitoefening van bedoelde bedryf voort te sit. Met dien verstande dat die Registrateur nie so 'n persoon toelaat om geld vir die finansiering van addisionele besigheid te verkry nie.”;

(e) deur paragraaf (f) van subartikel (6) deur die volgende paragraaf te vervang:

„(f) die instelling, na die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1972, regstreeks of onregstreeks onderneem of onderneem het om die terugbetaling te waarborg van 'n lening of 'n deposito wat 'n persoon in die Republiek (behalwe 'n bankinstelling, die regering van die Republiek, 'n provinsiale administrasie, 'n plaaslike bestuur, 'n raad wat by of kragtens 'n Wet van die Parlement ingestel is, 'n regspersoon wat kragtens so 'n Wet gekorporeer is met die oogmerk om werksaamhede in die openbare belangte verrig, en 'n filiaal van so 'n regspersoon) aan of by 'n ander persoon in die Republiek (behalwe 'n bankinstelling) maak;”;

(f) deur die volgende subartikel by te voeg:

„(7) Die Registrateur kan 'n bankinstelling skriftelik in kennis stel dat 'n bepaalde praktyk of metode van besigheid doen 'n ,onreëlmatige of ongewenste praktyk' of 'n ,ongewenste metode van besigheid doen' is, en kan by kennisgewing in die *Staatskoerant* 'n bepaalde praktyk of metode van besigheid doen as 'n ,onreëlmatige of ongewenste praktyk' of 'n ,ongewenste metode van besigheid doen' vir 'n bepaalde klas of bepaalde klasse bankinstelling of vir alle bankinstellings verklaar, en 'n bankinstelling wat so 'n praktyk of metode van besigheid doen wat uit hoofde van so 'n kennisgewing vir hom onreëlmstig of ongewens is, toepas na verloop van een-en-twintig dae vanaf die

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(c) it is entitled or has the power directly or indirectly to determine the appointment of the majority of the directors of that banking institution, including—

(i) the power to appoint or remove, without the consent or concurrence of any other person, all or the majority of such directors;

(ii) the power to prevent any person from being appointed a director without its consent,

and if a person's appointment as a director of the banking institution follows necessarily from his appointment as a director of that company, the first-mentioned appointment shall for the purposes of this subsection be deemed to be an appointment by virtue of a power of that company.

(4) If a person other than a registered banking institution prior to the commencement of the Financial Institutions Amendment Act, 1976, obtained money, whether against the issue of debentures or otherwise, and such obtaining of money is in terms of subsection (2A) deemed to be the acceptance of deposits as a business, he may be permitted by the Registrar to continue to carry on such business on the conditions and for the period determined by the Registrar: Provided that the Registrar shall not allow such person to obtain any money for financing additional business.”;

(e) by the substitution for paragraph (f) of subsection (6) of the following paragraph:

“(f) after the commencement of the Financial Institutions Amendment Act, 1972, the institution directly or indirectly undertakes or undertook to guarantee the repayment of a loan or a deposit which a person in the Republic (other than a banking institution, the Government of the Republic, a provincial administration, a local authority, a board established by or under an Act of Parliament, a juristic person which has been incorporated in terms of such an Act with the object of performing any functions in the public interest, and a subsidiary of any such juristic person) makes to or with another person in the Republic (other than a banking institution);”;

(f) by the addition of the following subsection:

“(7) The Registrar may in writing notify a banking institution that a specified practice or method of conducting business is an ‘irregular or undesirable practice’ or an ‘undesirable method of conducting businesses’ and may by notice in the *Gazette* declare a specified practice or method of conducting business an ‘irregular or undesirable practice’ or an ‘undesirable method of conducting business’ for a specified class or specified classes of banking institution or for all banking institutions, and a banking institution which employs such a practice or method of conducting business which by virtue of any such notice is irregular

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datum van genoemde skriftelike kennisgewing of die datum van genoemde kennisgewing in die *Staatskoerant*, na gelang van die geval, is aan 'n misdryf skuldig."

Wysiging van artikel 2 van Wet 23 van 1965.

38. Artikel 2 van die Bankwet, 1965, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Hierdie Wet is nie van toepassing nie op die Posspaarbank of die Landbank of die Reserwebank of die Nywerheid-ontwikkelingskorporasie van Suid-Afrika, Beperk, of die Nasionale Finansiële korporasie of die Staatskuldkommissarisse, of op enige plaaslike bestuur of 'n bouvereniging of 'n koöperatiewe Bantoe-kredietvereniging wat ingevolge 'n proklamasie uitgevaardig kragtens Wet No. 29 van 1897 van die Kaap die Goeie Hoop of kragtens die Bantoe-administrasie Wet, 1927 (Wet No. 38 van 1927), geregistreer is of 'n instelling wat die finansiering van die ontwikkeling van bepaalde gebiede as hoofdoelstelling het en wat deur die Minister goedgekeur is en voldoen aan die voorwaardes wat die Minister van tyd tot tyd nodig mag ag en waarvan die instelling skriftelik in kennis gestel is: Met dien verstande dat sodanige vrystelling nie van toepassing is nie op 'n spaardepartement of spaarbank of dergelike deposito-nemende instelling wat opgerig is deur of in verband met 'n plaaslike bestuur."

Wysiging van artikel 7 van Wet 23 van 1965.

39. Artikel 7 van die Bankwet, 1965, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Niemand mag die bedryf van 'n bankinstelling uitoefen nie, tensy hy as 'n bankinstelling van 'n bepaalde klas geregistreer of voorlopig geregistreer is."

Wysiging van artikel 9 van Wet 23 van 1965.

40. Artikel 9 van die Bankwet, 1965, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) 'n Persoon wat geld hou wat hy verkry het deur die bedryf van 'n bankinstelling uit te oefen sonder dat hy volgens voorskrif van hierdie Wet of 'n wetsbepaling wat deur hierdie Wet herroep is, geregistreer of voorlopig geregistreer is, moet dié geld ooreenkomstig die Registrateur se voorskrifte terugbetaal."

Wysiging van artikel 10 van Wet 23 van 1965.

41. Artikel 10 van die Bankwet, 1965, word hierby gewysig deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

„(a) As die Registrateur 'n bankinstelling op grond van enige valse of onjuiste verklaring geregistreer het, of as 'n bankinstelling of iemand wat die bedryf van 'n bankinstelling uitoefen, aan 'n misdaad ingevolge hierdie Wet of 'n wetsbepaling wat deur hierdie Wet herroep is, skuldig bevind is, of as 'n bankinstelling nie behoorlik die bedryf van 'n bankinstelling in die klas waarin die betrokke bankinstelling geregistreer is, uitoefen nie, of as 'n bankinstelling 'n wanvoorstelling maak insake die fasiliteite wat hy aan sy lede of aan die publiek aanbied, of as hy voortgaan met 'n praktyk of metode van besigheid doen wat as 'n onreëlmatige of ongewenste praktyk of metode van besigheid doen kragtens artikel 1 (7) verklaar is, kan die Registrateur by die bevoegde afdeling van die Hooggeregshof van Suid-Afrika aansoek doen om 'n bevel tot intrekking of opskorting van die registrasie van die betrokke instelling, en gemelde afdeling kan daarna die aansoek oorweeg en die bevel daaromtrent



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or undesirable for him after the expiry of twenty-one days from the date of the said written notice or the date of the said notice in the *Gazette*, as the case may be, shall be guilty of an offence.”.

38. Section 2 of the Banks Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 2 of Act 23 of 1965.

“(1) This Act shall not apply to the Post Office Savings Bank or the Land Bank or the Reserve Bank or the Industrial Development Corporation of South Africa, Limited, or the National Finance Corporation or the Public Debt Commissioners, or to any local authority or any building society or any Bantu co-operative credit society registered under any proclamation issued under Act No. 29 of 1897 of the Cape of Good Hope or under the Bantu Administration Act, 1927 (Act No. 38 of 1927), or an institution having as its main objective the financing of the development of certain regions and which has been approved by the Minister and complies with conditions which the Minister may from time to time deem necessary and of which the institution has been notified in writing: Provided that such exemption shall not apply to any savings department or savings bank or similar deposit-receiving institution established by or in connection with any local authority.”.

39. Section 7 of the Banks Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 7 of Act 23 of 1965.

“(1) No person shall carry on the business of a banking institution unless that person has been registered or provisionally registered as a banking institution of a particular class.”.

40. Section 9 of the Banks Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 9 of Act 23 of 1965.

“(1) A person holding money which he has obtained by carrying on the business of a banking institution without being registered or provisionally registered as required by this Act or any law repealed by this Act, shall repay such money in accordance with the Registrar's directions.”.

41. Section 10 of the Banks Act, 1965, is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph: Amendment of section 10 of Act 23 of 1965.

“(a) If the Registrar has registered a banking institution on the strength of any false or incorrect statement, or if a banking institution or any person carrying on the business of a banking institution has been convicted of any offence under this Act or any law repealed by this Act, or if any banking institution does not carry on satisfactorily the business of a banking institution of the class in which the institution in question is registered, or if any banking institution misrepresents the facilities which it offers to its members or to the public, or if any banking institution continues with a practice or method of doing business which in terms of section 1 (7) has been declared an irregular or undesirable practice or method of doing business, the Registrar may apply to the competent division of the Supreme Court of South Africa for an order cancelling or suspending the registration of the said institution, and the said division may thereupon entertain the application and make such order thereon as it deems

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uitvaardig wat hy wenslik ag: Met dien verstande dat as iemand aan bedrog of falsiteit ingevolge subartikel (1) skuldig bevind is omdat hy 'n valse verklaring gedoen het op grond waarvan die bankinstelling, soos vermeld, geregistreer is, die Registrateur self, met die goedkeuring van die Minister, die registrasie kan intrek of dit kan opskort op die voorwaardes wat hy na goeddunke oplê.”

Invoeging van artikels 12A en 12B in Wet 23 van 1965.

42. Die volgende artikels word hierby in die Bankwet, 1965, na artikel 12 ingevoeg:

„Registrasie van bank-beheer-maatskappy. 12A. (1) Niemand mag sonder die voorafgaande skriftelike goedkeuring van die registrateur beheer oor 'n bankinstelling verkry nie, en, behoudens die bepalings van subartikel (6), mag 'n ander persoon as 'n geregistreerde bankinstelling nie beheer oor 'n bankinstelling verkry nie, tensy hy as 'n bankbeheer-maatskappy geregistreer is.

(2) 'n Persoon, uitgesonderd 'n geregistreerde bankinstelling, wat by die inwerkingtrede van die Wysigingswet op Finansiële Instellings, 1976, beheer oor 'n bankinstelling het of wat tesame met sy geassosieerdes by genoemde inwerkingtrede aandeel in 'n bankinstelling hou waarvan die totale nominale waarde meer as dertig persent van die nominale waarde van al die uitgereikte aandeel van daardie bankinstelling verteenwoordig, moet op die wyse en binne die tydperk by regulasie voorgeskryf by die registrateur aansoek doen om registrasie as 'n bankbeheermaatskappy.

(3) Indien 'n in subartikel (2) bedoelde aansoeker voldoen aan die vereistes in subartikel (7) genoem, moet die registrateur hom as 'n bankbeheermaatskappy registreer, en indien hy nie aan daardie vereistes voldoen nie maar moontlik op 'n later tydstip daaraan sal kan voldoen en voornemens is om die nodige stappe te doen om op so 'n tydstip daaraan te kan voldoen, moet die registrateur hom uitstel verleen vir die tydperk en op die voorwaardes wat die registrateur bepaal, en wanneer hy aan genoemde vereistes voldoen, moet die registrateur hom as 'n bankbeheermaatskappy registreer.

(4) Waar 'n in subartikel (2) bedoelde persoon by die inwerkingtrede van die Wysigingswet op Finansiële Instellings, 1976, nie aan die vereistes van subartikel (7) voldoen nie, mag geen verdere aandeel in die bankinstelling op sy naam of dié van sy geassosieerdes geregistreer word nie, tensy die registrateur oortuig is dat daardie persoon binne 'n vir die registrateur aanneemlike tydperk aan die vereistes van subartikel (7) sal kan voldoen en die registrateur skriftelik goedgekeur het dat verdere aandeel op naam van genoemde persoon of sy geassosieerdes geregistreer mag word of tensy die beperkings beoog in artikel 28D (1) of 28D (3), na gelang van die geval, nie oorskry sal word nie.

(5) 'n Persoon wat beoog om beheer oor 'n bankinstelling te verkry, moet die skriftelike goedkeuring van die registrateur verkry, en tensy so 'n persoon 'n geregistreerde bankbeheermaatskappy of bankinstelling of 'n instelling vermeld in subartikel (6) is, moet hy ook op die wyse by regulasie voorgeskryf by die registrateur aansoek doen om as 'n bankbeheermaatskappy geregistreer te word en saam met sy aansoek die inligting en stukke voorlê wat by regulasie voorgeskryf is.

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desirable to make:—Provided that if any person has been convicted of fraud or *falsitas* under subsection (1) because he made a false statement on the strength whereof the banking institution was registered as aforesaid, the Registrar may himself, with the consent of the Minister, cancel the registration or suspend it on such conditions as he may deem fit to impose.”

42. The following sections are hereby inserted in the Banks Act, 1965, after section 12:

Insertion of sections 12A and 12B in Act 23 of 1965.

“Regis-  
tration of  
bank-con-  
trolling  
company.

12A. (1) No person shall without the prior written approval of the registrar acquire control over a banking institution, and, subject to the provisions of subsection (6), a person, other than a registered banking institution, shall not acquire control over a banking institution unless he is registered as a bank controlling company.

(2) A person, other than a registered banking institution, who at the commencement of the Financial Institutions Amendment Act, 1976, controls a banking institution, or who, together with his associates at the said commencement, holds shares in a banking institution of which the total nominal value represents more than thirty per cent of the nominal value of all the issued shares of that banking institution, shall in the manner and within the period prescribed by regulation apply to the registrar for registration as a bank controlling company.

(3) If an applicant referred to in subsection (2) complies with the requirements mentioned in subsection (7), the registrar shall register him as a bank controlling company, and if he does not comply with those requirements but will possibly be able to comply and intends taking the necessary steps to be able to comply therewith at a later stage, the registrar shall grant him an extension of time for the period and on the conditions determined by the registrar, and when he complies with the said requirements the registrar shall register him as a bank controlling company.

(4) Where a person referred to in subsection (2) does not comply with the requirements of subsection (7) at the commencement of the Financial Institutions Amendment Act, 1976, no further shares in the banking institution may be registered in his name or that of his associates unless the registrar is satisfied that such person will be able to comply with the requirements of subsection (7) within a period acceptable to the registrar and the registrar has in writing approved the registration of additional shares in the name of the said person or his associates or unless the limitations contemplated in section 28D (1) or 28D (3), as the case may be, will not be exceeded.

(5) A person who intends to acquire control over a banking institution must obtain the written approval of the registrar, and unless such a person is a registered bank controlling company or banking institution or an institution mentioned in subsection (6), he must also apply to the registrar, in the manner prescribed by regulation, to be registered as a bank controlling company and submit with his application the information and documents prescribed by regulation.

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(6) Die bepalings van subartikels (1), (2), (3) en (4) is nie van toepassing nie op die Kleurling-ontwikkelingskorporasie, Beperk, opgerig by die Wet op die Kleurling-ontwikkelingskorporasie, 1962 (Wet No. 4 van 1962), of 'n soortgelyke korporasie wat by Wet van die Parlement opgerig is en deur die registrateur goedgekeur is.

(7) Indien die registrateur, by oorweging van 'n aansoek om registrasie as 'n bankbeheermaatskappy, oortuig is—

- (a) dat die aansoeker beheer het of in staat is om beheer uit te oefen of te verkry oor een of meer bepaalde bankinstellings;
- (b) dat die aansoeker 'n maatskappy is wat kragtens die Maatskappywet, 1973 (Wet No. 61 van 1973), geregistreer is of geag word daarkragtens geregistreer te wees;
- (c) dat die akte van oprigting en statute van die aansoeker nie met hierdie Wet onbestaanbaar is nie en nie om die een of ander rede ongewens is nie;
- (d) dat die aansoeker nie van voorneme is om by die dryf van sy besigheid ongewenste metodes en praktyke toe te pas nie;
- (e) dat die finansiële posisie van die aansoeker gesond is;
- (f) dat die totale bedrag van die beleggings van die aansoeker in—
  - (i) ander ondernemings as geregistreerde Suid-Afrikaanse bankinstellings, bankbeheermaatskappye en eiendomsmaatskappye waarvan die eiendom hoofsaaklik vir bankdoeleindes gebruik word; en
  - (ii) vaste eiendom wat nie hoofsaaklik vir bankdoeleindes gebruik word nie, gesamentlik nie meer as veertig persent van die aansoeker se uitgereikte kapitaal en reserwes bedra nie;
- (g) dat, uitgesonderd in die geval waar die aansoeker deur 'n buitelandse bank of banke beheer word, die aandeelhouding in die aansoeker voldoen aan die beperkings by hierdie Wet voorgeskryf ten opsigte van die aandeelhouding in bankbeheermaatskappye;
- (h) dat die aansoeker nie regstreeks of onregstreeks beheer oor meer as een bankinstelling in enige in artikel 1 (1) vermelde klas bankinstelling het of sal verkry nie; en
- (i) dat in die geval van 'n bankbeheermaatskappy wat 'n diskontohuis beheer, die aansoeker—
  - (i) geen ander bankinstelling beheer nie;
  - (ii) voldoen aan die aandeelhoudingbeperking ten opsigte van diskontohuise soos bepaal in artikel 28D (3);
  - (iii) slegs dié ander besigheid doen wat die registrateur goedkeur en in die mate wat die registrateur goedkeur,

moet hy teen betaling deur die aansoeker van 'n registrasiegeld van tien rand die aansoeker as 'n bankbeheermaatskappy registreer en 'n sertifikaat van registrasie aan hom uitreik.

(8) Indien 'n aansoeker om registrasie as 'n bankbeheermaatskappy nie ooreenkomstig subartikel (7) geregistreer kan word nie, moet die registrateur die aansoeker asook elke betrokke bankinstelling skriftelik in kennis stel dat registrasie nie verleen word nie.

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(6) The provisions of subsections (1), (2), (3) and (4) shall not apply to the Coloured Development Corporation, Limited, established by the Coloured Development Corporation Act, 1962 (Act No. 4 of 1962), or a similar corporation which has been established by Act of Parliament and has been approved by the registrar.

(7) If the registrar, when considering an application for the registration as a bank controlling company, is satisfied—

- (a) that the applicant has control of or is in a position to exercise or acquire control over one or more particular banking institutions;
- (b) that the applicant is a company registered or deemed to have been registered under the Companies Act, 1973 (Act No. 61 of 1973);
- (c) that the memorandum and articles of association of the applicant are not inconsistent with this Act and are not undesirable for any reason;
- (d) that the applicant does not propose to adopt undesirable methods and practices in conducting his business;
- (e) that the financial position of the applicant is sound;
- (f) that the total amount of the applicant's investments in—
  - (i) undertakings other than registered South African banking institutions, bank controlling companies and property companies of which the property is used mainly for bank purposes; and
  - (ii) fixed property which is not used mainly for bank purposes,
 does not together amount to more than forty per cent of the applicant's issued capital and reserves;
- (g) that, except in the case where the applicant is controlled by a foreign bank or banks, the shareholding in the applicant complies with the limitations prescribed by this Act in respect of the shareholding in bank controlling companies;
- (h) that the applicant neither directly nor indirectly has or will acquire control over more than one banking institution in any class of banking institution mentioned in section 1 (1); and
- (i) that in the case of a bank controlling company which controls a discount house, the applicant—
  - (i) controls no other banking institution;
  - (ii) complies with the limitation on shareholding in respect of discount houses as laid down in section 28D (3);
  - (iii) conducts only such other business as the registrar approves and to the extent which the registrar approves,

he shall, on payment by the applicant of a registration fee of ten rand, register the applicant as a bank controlling company and issue a certificate of registration to him.

(8) If an applicant for registration as a bank controlling company cannot be registered in accordance with subsection (7), the registrar shall in writing notify the applicant and also every banking institution involved, that the registration is not being granted.

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Intrekking van registrasie van bankbeheermaatskappy. 12B. (1) Indien die registrateur oortuig is dat 'n maatskappy wat as 'n bankbeheermaatskappy geregistreer is, nie meer enige bankinstelling beheer nie, moet hy—

(a) op versoek van die maatskappy sy registrasie as 'n bankbeheermaatskappy intrek; en

(b) indien geen versoek om intrekking van die registrasie deur hom ontvang word nie, die maatskappy by skriftelike kennisgewing ver-wittig dat hy van voorneme is om die registrasie van die maatskappy as 'n bankbeheermaatskappy by verstryking van 'n in die kennis-gewing vermelde tydperk (wat nie minder as dertig dae mag wees nie) in te trek tensy die maatskappy redes kan aanvoer waarom die registrasie nie ingetrek moet word nie.

(2) Die bepalinge van artikel 10 (3) (b), (c) en (d) is *mutatis mutandis* van toepassing op 'n intrekking van registrasie ooreenkomstig subartikel (1) (b)."

Invoeging van artikel 13A in Wet 23 van 1965.

43. Die volgende artikel word hierby in die Bankwet, 1965, na artikel 13 ingevoeg:

„Opgawes wat bank-beheer-maatskappy aan regi-strateur moet voorlê. 13A. 'n Geregistreerde bankbeheermaatskappy moet aan die registrateur verstrek—

(a) binne 'n tydperk van een-en-twintig dae na sy jaarlikse algemene vergadering, 'n kopie van sy jaarlikse rekeninge en die verslag van sy ouditeure wat deur sy hoof- uitvoerende beampte gesertifiseer is;

(b) binne 'n tydperk wat die registrateur bepaal, die verdere opgawes of inligting wat die regi-strateur die bankbeheermaatskappy skriftelik versoek om te verstrek ten einde hom in staat te stel om te kan bepaal of die maatskappy die bepalinge van hierdie Wet nakom."

Wysiging van artikel 14 van Wet 23 van 1965, soos gewysig deur artikel 3 van Wet 23 van 1970.

44. Artikel 14 van die Bankwet, 1965, word hierby gewysig deur die woord „kapitaal", oral waar dit voorkom, deur die woord „aandelekapitaal" te vervang.

Wysiging van artikel 15 van Wet 23 van 1965.

45. Artikel 15 van die Bankwet, 1965, word hierby gewysig deur die woord „kapitaal" deur die woord „aandelekapitaal" te vervang.

Wysiging van artikel 17 van Wet 23 van 1965, soos vervang deur artikel 14 van Wet 91 van 1972.

46. Artikel 17 van die Bankwet, 1965, word hierby gewysig—

(a) deur paragraaf (iv) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragraaf te vervang:

„(iv) die totaalbedrag aan—

(aa) aksepte; en

(bb) self-likwiderende wissels of promesses wat uit die beweging van goedere ontstaan, deur die Reserwebank verdiskonteerbaar is en binne hoogstens honderd-en-twintig dae of, in die geval van landbouwissels, ses maande, verval, wat as likwiede bates geld, nie twintig persent van die totale bedrag van likwiede bates wat ingevolge hierdie subartikel na aftrekking van die in artikel 16 bedoelde reserwesaldo deur 'n bankinstelling in stand gehou moet word, te bowe mag gaan nie, sonder dat die voorafgaande bepalinge van hierdie paragraaf 'n bankinstelling egter belet om, vir ander doeleindes as minimum likwiede bates, 'n

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Cancellation of registration of bank controlling company.

**12B.** (1) If the registrar is satisfied that a company which is registered as a bank controlling company has ceased to control any banking institution, he shall—

- (a) at the request of the company, cancel its registration as a bank controlling company; and
- (b) if no request for cancellation of the registration is received by him, give written notice to the company that he intends to cancel the registration of the company as a bank controlling company at the expiry of a period (being not less than thirty days) mentioned in the notice unless the company can show cause why the registration should not be cancelled.

(2) The provisions of section 10 (3) (b), (c) and (d) shall apply *mutatis mutandis* to a cancellation of registration in terms of subsection (1) (b)."

**43.** The following section is hereby inserted in the Banks Act, 1965, after section 13:

Insertion of section 13A in Act 23 of 1965.

"Returns which bank controlling company must render to registrar.

**13A.** A registered bank controlling company shall submit to the registrar—

- (a) within a period of twenty-one days after its annual general meeting a copy of its annual accounts and the report by its auditors certified by its chief executive officer;
- (b) within such period as the registrar may determine, any additional returns or information which the registrar may in writing request the bank controlling company to furnish in order to enable him to determine whether the company is complying with the provisions of this Act."

**44.** Section 14 of the Banks Act, 1965, is hereby amended by the substitution for the word "capital", wherever it appears, of the words "share capital".

Amendment of section 14 of Act 23 of 1965, as amended by section 3 of Act 23 of 1970.

**45.** Section 15 of the Banks Act, 1965, is hereby amended by the substitution for the word "capital" of the words "share capital".

Amendment of section 15 of Act 23 of 1965.

**46.** Section 17 of the Banks Act, 1965, is hereby amended—

Amendment of section 17 of Act 23 of 1965, as substituted by section 14 of Act 91 of 1972.

- (a) by the substitution for paragraph (iv) of the proviso to subsection (1) of the following paragraph:

"(iv) the aggregate amount of—

- (aa) acceptances; and
- (bb) self-liquidating bills or promissory notes arising out of the movement of goods and discountable by the Reserve Bank, with a maturity not exceeding one hundred and twenty days or, in the case of agricultural bills, six months,

which rank as liquid assets, shall not exceed twenty per cent of the total amount of liquid assets to be maintained by a banking institution in terms of this subsection after deduction of the reserve balance referred to in section 16, without, however, any of the foregoing provisions of this paragraph prohibiting a banking institution from holding, for purposes other than minimum liquid

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groter totaalbedrag aan sodanige aksepte, wissels of promesses te hou as wat ingevolge die bedoelde voorafgaande bepalings by die vereiste minimum likwiede bates ingesluit mag wees.”;

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

„(a) Wanneer die Reserwebank dit in die nasionale ekonomiese belang wenslik ag dat aanvullende likwiede bates deur bankinstellings in stand gehou moet word, kan hy met die toestemming van die Tesourie van tyd tot tyd bepaal—

(i) dat ten opsigte van die instellings van 'n groep bepaal volgens maatstawwe wat die Reserwebank van tyd tot tyd bepaal en wat uiteengesit word in die kennisgewings vermeld in paragraaf (c), die in paragrawe (a), (b) en (c) van subartikel (1) vermelde persentasies onderskeidelik tot hoogstens sestig, veertig en tien verhoog word; of

(ii) dat elke instelling van 'n besondere groep (in subparagraaf (i) bedoel), benewens die likwiede bates deur subartikel (1) vereis, aanvullende likwiede bates in die Republiek in stand moet hou wat minstens gelyk is aan—

(aa) 'n persentasie deur die Reserwebank voorgeskryf, maar nie meer nie as—

(i) sewentig persent van die bedrag waarmee die korttermynverpligtings teenoor die publiek;

(ii) vyftig persent van die bedrag waarmee die middeltermynverpligtings teenoor die publiek; of

(iii) twintig persent van die bedrag waarmee die langtermynverpligtings teenoor die publiek,

wat deur die instelling in die Republiek betaalbaar is (soos aangegee in die jongste maandopgawe wat hy ingevolge paragraaf (a) van subartikel (1) van artikel *dertien* aan die Registrateur verstrek het) die bedrag van sodanige verpligtings oorskry op 'n datum deur die Reserwebank bepaal en deur die Registrateur in die *Staatskoerant* vermeld; of

(bb) die som van twee of meer bedrae wat ooreenkomstig die bepalings van subitems (aa) (i), (ii) en (iii) bereken is; of

(iii) dat elke instelling van 'n besondere groep, benewens die aanvullende likwiede bates wat ingevolge subparagraaf (i) in stand gehou moet word, aanvullende likwiede bates ingevolge subparagraaf (ii) in stand moet hou: Met dien verstande dat by die toepassing van hierdie subparagraaf die maksimum persentasie wat die Reserwebank ingevolge subparagraaf (ii) met betrekking tot 'n bepaalde soort verpligting kan bepaal, verminder met die persentasie waarmee die in subartikel (1) vermelde persentasie met betrekking tot die betrokke soort verpligting ingevolge subparagraaf (i) verhoog is; en

(iv) dat elke instelling van 'n besondere groep met betrekking tot aanvullende likwiede



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assets, any such acceptances, bills or promissory notes in excess of the aggregate amount which may, in terms of the said foregoing provisions, be included in the required minimum liquid assets.”;

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

“(a) Whenever the Reserve Bank deems it desirable in the national economic interest that supplementary liquid assets be maintained by banking institutions, it may with the consent of the Treasury from time to time determine—

- (i) that in respect of the institutions of a group determined in accordance with criteria laid down from time to time by the Reserve Bank and set out in the notices mentioned in paragraph (c), the percentages mentioned in paragraphs (a), (b) and (c) of subsection (1) shall be increased to not more than sixty, forty and ten respectively; or

- (ii) that every institution of a particular group (referred to in subparagraph (i)), shall maintain, in addition to the liquid assets required by subsection (1), supplementary liquid assets in the Republic at least equal to—

(aa) a percentage prescribed by the Reserve Bank, but not exceeding—

- (i) seventy per cent of the amount by which the short-term liabilities to the public;
- (ii) fifty per cent of the amount by which the medium-term liabilities to the public; or
- (iii) twenty per cent of the amount by which the long-term liabilities to the public,

payable by the institution in the Republic (as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of subsection (1) of section *thirteen*) exceed the amount of such liabilities as at a date determined by the Reserve Bank and stated by the Registrar in a notice in the *Gazette*;

or

(bb) the sum of two or more amounts calculated in accordance with the provisions of subitems (aa) (i), (ii) and (iii); or

- (iii) that every institution of a particular group shall maintain, in addition to the supplementary liquid assets required to be maintained in terms of subparagraph (i), supplementary liquid assets in terms of subparagraph (ii): Provided that for the purposes of this subparagraph the maximum percentage which the Reserve Bank may determine in terms of subparagraph (ii) in respect of a particular kind of liability, is reduced by the percentage by which the percentage referred to in subsection (1), in respect of the kind of liability concerned, has been increased in terms of subparagraph (i); and

- (iv) that every institution of a particular group shall, in respect of supplementary liquid

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bates 'n bedrag wat minstens gelyk is aan 'n persentasie, deur die Reserwebank voorgeskryf, van die korttermynverpligtings of van die middeltermynverpligtings of van die korttermynverpligtings sowel as van die middeltermynverpligtings van die instelling teenoor die publiek in die Republiek, by die Reserwebank in kontant of by die Nasionale Finansiële Korporasie in stand moet hou: Met dien verstande dat die perke in subparagrafe (i), (ii) en (iii), na gelang van die geval, uiteengesit, nie deur 'n bepaling ingevolge hierdie subparagraaf oorskry mag word nie.”; en

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

„(c) Wanneer die Reserwebank kragtens paragraaf (a) of paragrafe (a) en (b) 'n bepaling gemaak het, stel hy die Registrateur skriftelik daarvan in kennis, en die Registrateur moet so gou doenlik elke instelling waarop die bepaling betrekking het, skriftelik van die bepaling in kennis stel en die bepaling in die *Staatskoerant* laat afkondig.”.

Invoeging van artikel 21A in Wet 23 van 1965.

47. Die volgende artikel word hierby in die Bankwet, 1965, na artikel 21 ingevoeg:

„Beperking op sekere transaksies van bankinstellings.

21A. (1) Die totale bedrag van 'n bankinstelling se belegging in vaste eiendom, in lenings en voorskotte aan filiale van die bankinstelling waarvan die hoofdoelstelling die besit van vaste eiendom is, en in aandele (uitgesonderd aflosbare voorkeuraandele maar nie voorkeuraandele wat in gewone aandele omskepbaar is nie), met inbegrip van aandele in filiaalmaatskappye van die bankinstelling, mag nie die bankinstelling se opbetaalde kapitaal en onaangetaste reserwes oorskry nie: Met dien verstande dat in die geval waar vaste eiendom of 'n onderneming deur die bankinstelling ingekoop word om 'n belegging (met inbegrip van 'n lening of voorskot) te beskerm, die bedrag van sodanige belegging vir 'n tydperk van vyf jaar vanaf die datum van die inkoop nie vir doeleindes van hierdie subartikel in berekening gebring word nie.

(2) 'n Bankinstelling en sy geassosieerdes mag nie aandele in 'n geregistreerde versekeraar hou nie waarvan die totale nominale waarde 'n bedrag gelykstaande met dertig persent van die nominale waarde van al die uitgereikte aandele van daardie versekeraar oorskry.

(3) Waar in 'n bepaalde geval by die inwerking-treding van die Wysigingswet op Finansiële Instellings, 1976, die verhouding bedoel in subartikel (2) oorskry word, kan die bankinstelling en sy geassosieerdes die betrokke aandele behou maar solank die verhouding vermeld in genoemde subartikel oorskry word, mag hulle geen verdere aandele in bedoelde versekeraar verkry nie.

(4) (a) Die totale bedrag verskuldig aan 'n bankinstelling ten opsigte van lenings en voorskotte deur hom verleen aan lede van sy geaffilieerde groep, behalwe dié aan bankinstellings in daardie groep en dié aan filiale van die bankinstelling in subartikel (1) vermeld, plus die totale bedrag van die bankinstelling se belegging in aflosbare voorkeuraandele (uitgesonderd voorkeuraandele wat in gewone aandele omskepbaar is)

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assets, maintain with the Reserve Bank in cash, or with the National Finance Corporation, an amount which is at least equal to a percentage, prescribed by the Reserve Bank, of the short-term liabilities or of the medium-term liabilities or of the short-term liabilities as well as of the medium-term liabilities of the institution to the public in the Republic: Provided that the limits set forth in subparagraphs (i), (ii) and (iii), as the case may be, shall not be exceeded by a determination in terms of this subparagraph.”; and

- (c) by the substitution for paragraph (c) of subsection (2) of the following paragraph:

“(c) Whenever the Reserve Bank has made a determination in terms of paragraph (a) or paragraphs (a) and (b), it shall inform the Registrar thereof in writing, and the Registrar shall as soon as practicable give written notice of the determination to every institution to which the determination applies, and cause the determination to be published in the *Gazette*.”.

47. The following section is hereby inserted in the Banks Act, 1965, after section 21:

Insertion of section 21A in Act 23 of 1965.

“Limitation on certain transactions of banking institutions.

21A. (1) The total amount of a banking institution's investment in fixed property, in loans and advances to subsidiaries of the banking institution of which the main object is the holding of fixed property and in shares (excluding redeemable preference shares but not preference shares which can be converted into ordinary shares), including shares in subsidiary companies of the banking institution, shall not exceed the banking institution's paid-up capital and unimpaired reserves: Provided that in the case where fixed property or an undertaking is bought in by a banking institution to protect an investment (including a loan or an advance) the amount of such an investment shall for a period of five years from the date of purchase not be taken into account for the purposes of this subsection.

(2) A banking institution and its associates shall not hold shares in a registered insurer of which the total nominal value exceeds an amount equal to thirty per cent of the nominal value of all the issued shares of that insurer.

(3) Where in any particular case at the commencement of the Financial Institutions Amendment Act, 1976, the ratio contemplated in subsection (2) is exceeded, the banking institution and its associates may retain the shares concerned but they shall not acquire any further shares in such insurer as long as the ratio mentioned in that subsection is exceeded.

(4) (a) The total amount owing to a banking institution in respect of loans and advances granted by it to members of its affiliated group, other than those to banking institutions in that group and those to subsidiaries of the banking institution mentioned in subsection (1), plus the total amount of the banking institution's investment in redeemable preference shares (excluding preference shares which can be con-

uitgereik deur lede van gemelde groep, mag nie 'n bedrag gelykstaande met vyf persent van die bankinstelling se totale verpligtings teenoor die publiek oorskry nie: Met dien verstande dat die totaal van die bedrag verskuldig ten opsigte van genoemde lenings en voorskotte en die bedrag van die instelling se belegging in die gemelde aflosbare voorkeuraandele verminder kan word met die bedrag waarmee die totale bedrag van die opbetaalde kapitaal en onaangetaste reserwes van die bankinstelling sy belegging in vaste eiendom en in die aandele in subartikel (1) vermeld, oorskry.

- (b) Vir die doeleindes van paragraaf (a) omvat 'geaffilieerde groep' die bankinstelling se beherende aandeelhouders en dié van sy beherende maatskappy, sy filiaalmaatskappye, sy beherende maatskappy, genoemde maatskappye se filiaalmaatskappye en 'n maatskappy of onderneming wat regstreeks of onregstreeks deur enige van genoemde persone of die bankinstelling beheer word.

(5) 'n Bankinstelling moet die besonderhede wat by regulasie voorgeskryf is ten opsigte van die aflosbare voorkeuraandele en voorskotte bedoel in subartikel (4), verstrek in die staat wat die bankinstelling ingevolge artikel 13 (1) (b) aan die registrateur moet verstrek."

Invoeging van artikels 27A, 27B, 27C en 27D in Wet 23 van 1965.

48. Die volgende artikels word hierby in die Bankwet, 1965, na artikel 27 ingevoeg:

„Filiaal van bankinstelling.

27A. 'n Bankinstelling mag nie 'n filiaalmaatskappy stig of verkry nie tensy die skriftelike goedkeuring van die registrateur vooraf verkry is.

Openbaar-making van bankinstelling se belang in sy filiaalmaatskappye, en dié van beherende maatskappy in bankinstelling.

27B. Die Minister kan by regulasie voorskryf dat 'n bankinstelling die besonderhede wat die Minister bepaal, ten opsigte van enige belegging van die bankinstelling in aandele van sy filiaalmaatskappye, en ten opsigte van enige belegging in sy aandele deur sy beherende maatskappy moet verstrek in die staat wat die bankinstelling ingevolge artikel 13 (1) (b) aan die registrateur moet verstrek.

Beperking op banke onder beheer van 'n beherende maatskappy.

27C. 'n Bankinstelling of 'n geregistreerde bank-beheermaatskappy mag nie meer as een bankinstelling in enige klas bankinstelling vermeld in artikel 1 (1), regstreeks of onregstreeks beheer nie: Met dien verstande dat 'n geregistreerde bank-beheermaatskappy wat 'n diskontohuis beheer, geen ander bankinstelling mag beheer nie: Met dien verstande voorts dat 'n bankinstelling nie 'n ander bankinstelling van dieselfde klas as eersgenoemde instelling mag beheer nie.

Verteenwoordiger van buitelandse bank.

27D. 'n Buitelandse bank mag nie sonder die toestemming van die registrateur 'n verteenwoordiger in die Republiek hê nie, en moet die naam van so 'n verteenwoordiger en die adres van sy verteenwoordiger se kantoor in die Republiek aan die registrateur verstrek en die registrateur van enige verandering van verteenwoordiger en van daardie adres in kennis stel."

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verted into ordinary shares) issued by members of the said group shall not exceed an amount equal to five per cent of the banking institution's total liabilities to the public: Provided that the sum of the amount owing in respect of the loans and advances mentioned and the amount of the institution's investment in the redeemable preference shares mentioned may be reduced by the amount by which the total amount of the banking institution's paid-up capital and unimpaired reserves exceeds its investment in fixed property and in the shares mentioned in subsection (1).

(b) For the purposes of paragraph (a) 'affiliated group' includes the banking institution's controlling shareholders and those of its controlling company, its subsidiary companies, its controlling company, the said companies' subsidiary companies and a company or undertaking which is directly or indirectly controlled by any of the said persons or the banking institution.

(5) A banking institution shall furnish such particulars as may be prescribed by regulation, in respect of the redeemable preference shares and advances referred to in subsection (4), in the statement which the banking institution is required to furnish to the registrar in terms of section 13 (1) (b)."

48. The following sections are hereby inserted in the Banks Act, 1965, after section 27:

Insertion of sections 27A, 27B, 27C and 27D in Act 23 of 1965.

"Subsidiary of banking institution.

27A. A banking institution shall not establish or acquire a subsidiary company unless the prior written authority of the registrar has been obtained.

Disclosure of banking institution's interest in its subsidiary companies, and that of controlling company in banking institution.

27B. The Minister may by regulation prescribe that a banking institution shall furnish the particulars which the Minister determines, in respect of any investment of the banking institution in shares of its subsidiary companies and in respect of any investment in its shares by its controlling company, in the statement which the banking institution is required to furnish to the registrar in terms of section 13 (1) (b).

Limitation on banks under control of a controlling company.

27C. A banking institution or a registered bank controlling company shall not directly or indirectly control more than one banking institution in any class of banking institution mentioned in section 1 (1): Provided that a registered bank controlling company which controls a discount house shall not control any other banking institution: Provided further that a banking institution shall not control another banking institution of the same class as the first-mentioned institution.

Representative of foreign bank.

27D. A foreign bank shall not without the consent of the registrar have a representative in the Republic and shall furnish the registrar with the name of any such representative and the address of its representative's office in the Republic and shall notify the registrar of any change of representative and of that address."

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Vervanging van artikel 28 van Wet 23 van 1965.

49. Artikel 28 van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

„Bankinstellings en bankbeheermaatskappye mag nie aandeel uitreik of registreer nie.

28. (1) 'n Bankinstelling of bankbeheermaatskappy reik nie toonderaandeel of aandeel sonder pariewaarde uit nie en reik nie voorkeuraandeel uit sonder die registrateur se skrifteike goedkeuring en anders as op die voorwaardes wat hy bepaal nie.

(2) 'n Bankinstelling of bankbeheermaatskappy registreer nie aandeel in hom op naam van 'n genomineerde nie, behalwe in onderstaande gevalle:

(a) op naam van die trustee van 'n effektrustskema wat kragtens die Wet op Beheer van Effektrustskemas, 1947 (Wet No. 18 van 1947), geregistreer is, of die genomineerde maatskappy van genoemde trustee wat deur die Registrateur van Effektrustmaatskappye goedgekeur is;

(b) op naam van die eksekuteur, administrateur, kurator of voog ten opsigte van die boedel van 'n oorlede aandeelhouer van die bankinstelling of bankbeheermaatskappy of van 'n aandeelhouer wie se boedel gesekwestreer is of van 'n aandeelhouer wat andersins handelingsonbevoeg is, of die likwidateur van 'n regspersoon in die proses van likwidasie wat 'n aandeelhouer van die bankinstelling of bankbeheermaatskappy is;

(c) vir 'n tydperk van ses maande op naam van 'n effektemakelaar of van 'n maatskappy wat deur hom beheer word of van 'n maatskappy wat deur 'n bankinstelling beheer word of van 'n amptenaar van daardie bankinstelling, indien dit nodig is dat die aandeel oorgedra word ten einde lewering aan die koper te vergemaklik of die regte van die voordeeltrekkende eienaar van die aandeel te beskerm of waar die voordeeltrekkende eienaar van die aandeel nie bekend is nie;

(d) waar die registrateur sodanige registrasie skriftelik goedgekeur het.”

Invoeging van artikels 28A, 28B, 28C, 28D, 28E en 28F in Wet 23 van 1965.

50. Die volgende artikels word hierby in die Bankwet, 1965, na artikel 28 ingevoeg:

„Inligting wat aandeelhouders moet verskaf.

28A. 'n Persoon op wie se naam aandeel in 'n bankinstelling of bankbeheermaatskappy geregistreer is of gaan word of iemand wat namens hom optree, moet op versoek van die betrokke bankinstelling of bankbeheermaatskappy dié inligting verstrek wat nodig is ten einde vir die doeleindes van artikels 28 (2), 28D, 28E, 34 en 34A te kan bepaal of daardie persoon—

(a) die voordeeltrekkende aandeelhouer is;

(b) 'n buitelandse aandeelhouer is;

(c) 'n geassosieerde van 'n ander aandeelhouer van die bankinstelling of bankbeheermaatskappy, na gelang van die geval, is.

Klassifisering van aandeelhouders.

28B. Waar die totale nominale waarde van die aandeel in 'n bankinstelling of bankbeheermaatskappy wat op naam van 'n bepaalde persoon geregistreer is, tesame met dié van enige aandeel wat aan hom uitgereik of oorgedra gaan word (indien daar is), minder is as vyf-en-twintigduisend

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49. The following section is hereby substituted for section 28 of the Banks Act, 1965:

Substitution of section 28 of Act 23 of 1965

"Banking institutions and bank controlling companies may not issue or register certain types of shares.

28. (1) A banking institution or bank controlling company shall not issue bearer shares or shares without par value, and shall not issue preference shares without the written approval of the registrar and otherwise than on the conditions determined by him.

(2) A banking institution or bank controlling company shall not register shares in it in the name of a nominee except in the following cases:

- (a) in the name of the trustee of a unit trust scheme registered in terms of the Unit Trusts Control Act, 1947 (Act No. 18 of 1947), or the nominee company of the said trustee which has been approved by the registrar of Unit Trust Companies;
- (b) in the name of the executor, administrator, curātor, trustee or guardian in respect of the estate of a deceased shareholder of the banking institution or bank controlling company or of a shareholder whose estate has been sequestrated or of a shareholder who is otherwise incapable of contracting, or the liquidator of a juristic person in the process of liquidation, which is a shareholder of the banking institution or bank controlling company;
- (c) for a period of six months in the name of a stockbroker or of a company controlled by him or of a company controlled by a banking institution or of an officer of that banking institution, if it is necessary that the shares be transferred in order to facilitate delivery to the purchaser or to protect the rights of the beneficial owner of the shares or where the beneficial owner of the shares is not known;
- (d) where the registrar has approved such registration in writing."

50. The following sections are hereby inserted in the Banks Act, 1965, after section 28:

Insertion of sections 28A, 28B, 28C, 28D, 28E and 28F in Act 23 of 1965.

"Information to be furnished by shareholders.

28A. A person in whose name shares in a banking institution or bank controlling company are registered or to be registered or a person acting on his behalf, shall at the request of the banking institution or bank controlling company concerned furnish such information as is necessary to determine for the purposes of sections 28 (2), 28D, 28E, 34 and 34A, whether the first-mentioned person is—

- (a) the beneficial shareholder;
- (b) a foreign shareholder;
- (c) an associate of any other shareholder of the banking institution or the bank controlling company, as the case may be.

Classification of shareholders.

28B. Where the total nominal value of shares in a banking institution or bank controlling company which are registered in the name of a particular person, together with that of any shares which are to be issued or transferred to him, if any, is less than twenty-five thousand rand or an amount which

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rand of 'n bedrag wat een persent van die totale nominale waarde van al die uitgereikte aandele van die bankinstelling of bankbeheermaatskappy, na gelang van die geval, verteenwoordig, watter ook al die kleinste is, kan die bankinstelling of bankbeheermaatskappy vir die doeleindes van artikels 28D, 28E, 34 en 34A aanvaar, tensy hy van die teendeel bewus is, dat die betrokke persoon—

- (a) indien sy aangetekende adres 'n adres binne die Republiek is, nie 'n buitelandse aandeelhouer is nie; en
- (b) nie 'n geassosieerde van 'n ander aandeelhouer van die bankinstelling of bankbeheermaatskappy, na gelang van die geval, is nie.

Optrede te goeder trou nie strafbaar nie.

**28C.** Waar 'n bankinstelling of bankbeheermaatskappy of 'n direkteur, beampte, werknemer of agent van 'n bankinstelling of bankbeheermaatskappy te goeder trou op grond van inligting redelikerwys verkry, handel of versuim om te handel en daardeur onwetend 'n bepaling van artikel 28 (2), 28D, 28E, 34 of 34A oortree, is hy nie daardeur skuldig aan 'n misdryf nie, maar niemand mag persoonlik of by volmag die stemreg ten opsigte van enige aandeel wat na die inwerkingtreeding van die Wysigingswet op Finansiële Instellings, 1976, strydig met die bepalings van artikel 28 (2), 28D of 28E geregistreer is, uitoefen nie.

Beperking op aandeelbesit in 'n bankinstelling en bankbeheermaatskappy.

**28D.** (1) Behoudens die bepalings van subartikels (2) en (4) van hierdie artikel en van artikels 28B en 28E, mag 'n bankinstelling (uitgesonderd 'n diskontohuis) of 'n bankbeheermaatskappy nie aandele in hom registreer nie op naam van 'n ander persoon as 'n geregistreerde bankinstelling of 'n geregistreerde bankbeheermaatskappy of 'n maatskappy wat ingevolge artikel 12A (4) deur die registrateur goedgekeur is, behalwe vir sover die totale nominale waarde van die aandele wat geregistreer gaan word tesame met dié wat reeds geregistreer is op die naam van—

- (i) 'n finansiële maatskappy wat deur die registrateur ten opsigte van daardie bankinstelling of bankbeheermaatskappy vir die doeleindes van hierdie artikel goedgekeur is, en sy geassosieerdes, nie dertig persent; en
- (ii) enige ander persoon en sy geassosieerdes, nie tien persent,

van die totale nominale waarde van al die uitgereikte aandele in die bankinstelling of bankbeheermaatskappy oorskry nie.

(2) Die Minister kan in besondere gevalle waar hy oortuig is dat dit in die openbare belang wenslik is, 'n bankinstelling (uitgesonderd 'n diskontohuis) of bankbeheermaatskappy skriftelik magtig om op die voorwaardes en in die mate wat die Minister bepaal, die persentasies in subartikel (1) vermeld te oorskry ten opsigte van binnelandse aandeelhouers.

(3) 'n Diskontohuis mag nie aandele in hom registreer nie op naam van 'n persoon (uitgesonderd 'n geregistreerde bankbeheermaatskappy) en sy geassosieerdes waarvan die totale nominale waarde tien persent van die totale nominale waarde van al die uitgereikte aandele in die diskontohuis oorskry.

(4) Aandele wat oorgedra is aan die eksekuteur, administrateur, kurator of voog ten opsigte van die boedel van 'n oorlede aandeelhouer van die



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represents one per cent of the total nominal value of all the issued shares of the banking institution or bank controlling company, as the case may be, whichever is the smaller, the banking institution or bank controlling company may, for the purposes of sections 28D, 28E, 34 and 34A, accept, unless it is otherwise informed, that the person concerned—

- (a) if his recorded address is an address in the Republic, is not a foreign shareholder; and
- (b) is not an associate of any other shareholder of the banking institution or bank controlling company, as the case may be.

*Bona fide*  
action not  
punishable.

28C. Where a banking institution or bank controlling company or a director, officer, employee or agent of a banking institution or bank controlling company *bona fide* acts or fails to act, on the strength of information reasonably obtained, and thereby unknowingly contravenes a provision of section 28 (2), 28D, 28E, 34 or 34A, he shall not thereby be guilty of an offence, but no person shall, personally or by proxy, exercise the voting rights in respect of any share which was registered in conflict with the provisions of section 28 (2), 28D or 28E after the commencement of the Financial Institutions Amendment Act, 1976.

Limitation  
of share-  
holding in  
a banking  
institution  
and bank  
controlling  
company.

28D. (1) Subject to the provisions of subsections (2) and (4) of this section and of sections 28B and 28E a banking institution (other than a discount house) or a bank controlling company shall not register shares in it in the name of a person other than a registered banking institution or a registered bank controlling company or a company approved by the registrar in terms of section 12A (4), except in so far as the total nominal value of the shares which are to be registered together with those which are already registered in the name of—

- (i) a financial company approved by the registrar in respect of such banking institution or bank controlling company for the purposes of this section, and its associates, does not exceed thirty per cent; and
- (ii) any other person and his associates does not exceed ten per cent,

of the total nominal value of all the issued shares in the banking institution or bank controlling company.

(2) The Minister may, in special cases where he is satisfied that it is desirable in the public interest, authorize a banking institution (other than a discount house) or bank controlling company in writing to exceed the percentages mentioned in subsection (1) in respect of domestic shareholders on the conditions and to the extent determined by the Minister.

(3) A discount house shall not register shares in it in the name of a person (other than a registered bank controlling company) and his associates of which the total nominal value exceeds ten per cent of the total nominal value of all the issued shares in the discount house.

(4) Shares which are transferred to the executor, administrator, curator, trustee or guardian in respect of the estate of a deceased shareholder of the banking

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bankinstelling of bankbeheermaatskappy of van 'n aandeelhouer wie se boedel gesekwestreer is of van 'n aandeelhouer wat andersins handelingsonbevoeg is, of die likwidateur van 'n regs persoon in die proses van likwidasie, wat 'n aandeelhouer van die bankinstelling of bankbeheermaatskappy is, word nie geag geregistreer te wees op naam van die aandeelhouer *nomine officii* nie maar word geag afsonderlik op naam van die onderskeie begunstigdes geregistreer te wees: Met dien verstande dat in die geval waar so 'n aandeelhouer *nomine officii* vanweë die stemkrag verbonde aan die aandeel op sy naam geregistreer, in staat is om die bankinstelling of bankbeheermaatskappy te beheer, die stemkrag wat hy ten opsigte van alle aandeel onder sy beheer kan uitoefen, ondanks enige andersluidende bepalings van 'n ander wet, beperk is tot tien persent van die stemme verbonde aan al die uitgereikte aandeel van die bankinstelling of bankbeheermaatskappy.

(5) Waar by die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, die totale nominale waarde van aandeel in 'n bankinstelling (uitgesonderd 'n diskontohuis) of bankbeheermaatskappy wat op naam van 'n finansiële maatskappy en sy geassosieerdes of 'n ander persoon en sy geassosieerdes geregistreer is, die betrokke persentasie vermeld in subartikel (1) oorskry, mag, behoudens die bepalings van artikel 28E, die aandeel aldus geregistreer bly, maar behalwe met die goedkeuring van die Registrateur, verleen op die voorwaardes wat hy nodig ag, waar hy oortuig is—

(i) dat die belange van die bankinstelling of bankbeheermaatskappy andersins nadelig geraak sal word; en

(ii) dat voldoening aan die perke in subartikel (1) bedoel, nie oormatig vertraag sal word nie, mag geen ander aandeel in die bankinstelling of bankbeheermaatskappy op naam van daardie aandeelhouer of sy geassosieerdes geregistreer word nie, solank die betrokke persentasie oorskry word.

(6) Indien by die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, die totale nominale waarde van aandeel in 'n diskontohuis wat op naam van 'n persoon en sy geassosieerdes geregistreer is, die verhouding bedoel in subartikel (3) oorskry, mag geen verdere aandeel op naam van sodanige persoon of dié van sy geassosieerdes geregistreer word nie en moet die diskontohuis binne ses maande vanaf die datum van genoemde inwerkingtreding 'n skema aan die registrateur voorlê waarvolgens die aandeelhoudings wat die perk genoem in subartikel (3) oorskry, binne 'n vir die registrateur aanneemlike tydperk verminder sal word in die mate dat aan die vereiste verhouding voldoen sal word.

(7) Die bepalings van subartikels (5) en (6) word nie so vertolk dat solank daar 'n oorskryding van die betrokke verhouding is, aandeel nie binne 'n groep geassosieerdes oorgedra mag word nie.

Beperking op aandeelbesit van buitelanders in 'n bankinstelling en bankbeheermaatskappy.

28E. (1) Behoudens die bepalings van subartikels (2), (5), (6), (7) en (8) mag 'n bankinstelling of 'n bankbeheermaatskappy nie aandeel in hom registreer nie—

(a) op naam van 'n buitelandse aandeelhouer, indien die totale nominale waarde van aandeel in daardie bankinstelling of bankbeheermaatskappy op naam van daardie aandeelhouer

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institution or bank controlling company or of a shareholder whose estate has been sequestrated or of a shareholder who is otherwise incapable of contracting or the liquidator of a corporate body in the process of liquidation, which is a shareholder of the banking institution or bank controlling company, shall not be deemed to be registered in the name of the shareholder *nomine officii* but shall be deemed to be registered separately in the name of the various beneficiaries: Provided that in the case where such a shareholder *nomine officii*, owing to the voting power attached to shares registered in his name, is able to control the banking institution or bank controlling company, the voting power which he can exercise in respect of all the shares under his control shall, notwithstanding anything to the contrary contained in any other law, be limited to ten per cent of the votes attached to all the issued shares of the banking institution or bank controlling company.

(5) Where at the commencement of the Financial Institutions Amendment Act, 1976, the total nominal value of shares in a banking institution (other than a discount house) or bank controlling company, registered in the name of a financial company and its associates or any other person and his associates, exceeds the relative percentage mentioned in subsection (1), the shares may, subject to the provisions of section 28E, remain so registered but, save with the approval of the Registrar, granted on such conditions as he deems necessary where he is satisfied—

(i) that the interests of the banking institution or bank controlling company will otherwise be detrimentally affected; and

(ii) that compliance with the limits referred to in subsection (1) will not be unduly delayed, no further shares in the banking institution or bank controlling company shall be registered in the name of that shareholder or his associates as long as the relative percentage is exceeded.

(6) If at the commencement of the Financial Institutions Amendment Act, 1976, the total nominal value of shares in a discount house, which is registered in the name of a person and his associates, exceeds the ratio referred to in subsection (3), no further shares shall be registered in the name of such person or that of his associates, and the discount house shall within six months from the date of the said commencement submit a scheme to the registrar whereby the shareholdings which exceed the limit mentioned in subsection (3) will be reduced within a period acceptable to the registrar to the extent that the required ratio will be complied with.

(7) The provisions of subsections (5) and (6) shall not be construed as meaning that as long as the relative ratio is exceeded, shares may not be transferred within a group of associates.

Limitation of shareholding by foreigners in a banking institution and bank controlling company.

28E. (1) Subject to the provisions of subsections (2), (5), (6), (7) and (8) a banking institution or a bank controlling company shall not register any shares in it—

(a) in the name of a foreign shareholder if the total nominal value of shares in that banking institution or bank controlling company registered in the name of that shareholder together with

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- geregistreer tesame met dié van sodanige aandele op naam van daardie aandeelhouer se geassosieerdes geregistreer, indien daar is, tien persent van die totale nominale waarde van al die uitgereikte aandele in daardie bankinstelling of bankbeheermaatskappy oorskry;
- (b) op naam van 'n buitelandse bank of sy geassosieerde of op naam van 'n finansiële maatskappy wat regstreeks of onregstreeks deur buitelandse aandeelhouers beheer word of op naam van so 'n maatskappy se geassosieerde, indien die totale nominale waarde van alle aandele in die bankinstelling of bankbeheermaatskappy wat op naam van buitelandse banke en dié van hulle geassosieerdes geregistreer is, plus dié wat op naam van finansiële maatskappye wat regstreeks of onregstreeks deur buitelandse aandeelhouers beheer word en op naam van hulle geassosieerdes geregistreer is, dertig persent van die nominale waarde van al die uitgereikte aandele van die bankinstelling of bankbeheermaatskappy oorskry.
- (2) Die Minister kan—
- (a) ondanks die bepalinge van subartikel (1) (a), in 'n bepaalde geval goedkeur, op die voorwaardes wat hy wenslik ag, dat aandele in 'n bankinstelling (uitgesonderd 'n diskontohuis) met 'n totale nominale waarde gelykstaande met hoogstens dertig persent van die nominale waarde van al die uitgereikte aandele van die bankinstelling geregistreer word op naam van 'n goedgekeurde finansiële maatskappy of goedgekeurde finansiële maatskappye wat regstreeks of onregstreeks deur buitelandse aandeelhouers beheer word en van sy of hulle geassosieerdes, indien die Minister oortuig is dat dit in die openbare belang wenslik is en dat dit nie daartoe kan lei dat die binnelandse aandeelhouers die beheer oor die bankinstelling verloor nie;
- (b) ondanks die bepalinge van subartikels (1), (3) en (6), in 'n bepaalde geval waar hy oortuig is dat dit in die openbare belang wenslik is, goedkeur, op die voorwaardes wat hy bepaal, dat aandele in 'n bankinstelling (uitgesonderd 'n diskontohuis) of 'n bankbeheermaatskappy met 'n totale nominale waarde gelykstaande met hoogstens vyftig persent (of, gedurende die tydperk wat die Minister bepaal, die hoër persentasie wat hy goedkeur) van die nominale waarde van al die uitgereikte aandele van die bankinstelling of bankbeheermaatskappy, na gelang van die geval, geregistreer word op naam van 'n buitelandse bank of buitelandse banke;
- (c) ondanks die bepalinge van artikel 28 (2), in 'n geval in paragraaf (b) bedoel, goedkeur dat die aandele wat 'n buitelandse bank of buitelandse banke in 'n bankinstelling of bankbeheermaatskappy hou, geregistreer word op naam van 'n buitelandse maatskappy indien al die aandele in daardie maatskappy gehou word deur daardie bank of banke en waarborge ten genoë van die Minister verstrekkend is dat geen aandele in vermelde maatskappy aan 'n ander persoon as 'n deur die Minister goedgekeurde bank of 'n binnelandse aandeelhouer vervreem sal word nie.
- (3) Indien by die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, in 'n

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that of such shares registered in the name of associates of that shareholder, if any, exceeds ten per cent of the total nominal value of all the issued shares in that banking institution or bank controlling company;

- (b) in the name of a foreign bank or its associate or in the name of a financial company which is directly or indirectly controlled by foreign shareholders or in the name of an associate of such a company, if the total nominal value of all the shares in the banking institution or bank controlling company registered in the name of foreign banks and that of their associates, plus those registered in the name of financial companies which are directly or indirectly controlled by foreign shareholders and in the name of their associates exceeds thirty per cent of the nominal value of all the issued shares of the banking institution or bank controlling company.

(2) The Minister may—

- (a) notwithstanding the provisions of subsection 1 (a), in a particular case approve, on the conditions which he deems desirable, that shares in a banking institution (other than a discount house) of a total nominal value equal to not more than thirty per cent of the nominal value of all the issued shares of the banking institution be registered in the name of an approved financial company or approved financial companies directly or indirectly controlled by foreign shareholders, and of its or their associates, if the Minister is satisfied that it is desirable in the public interest and that it cannot lead to the domestic shareholders' losing control of the banking institution;
- (b) notwithstanding the provisions of subsections (1), (3) and (6), in a particular case where he is satisfied that it is desirable in the public interest, approve, on the conditions which he determines, that shares in a banking institution (other than a discount house) or bank controlling company of a total nominal value equal to not more than fifty per cent (or, during such period as the Minister may determine, such higher percentage as he may approve) of the nominal value of all the issued shares of the banking institution or bank controlling company, as the case may be, be registered in the name of a foreign bank or foreign banks;
- (c) notwithstanding the provisions of section 28 (2), in a case envisaged in paragraph (b), approve that the shares held by a foreign bank or foreign banks in a banking institution or bank controlling company be registered in the name of a foreign company if all the shares in such company are held by the said bank or banks and warranties to the satisfaction of the Minister are furnished to the effect that no shares in the said company will be alienated to any person other than a bank approved by the Minister or a domestic shareholder.

- (3) If at the commencement of the Financial Institutions Amendment Act, 1976, in any particular

bepaalde geval die persentasieverhouding in subartikel (1) (a) of in subartikel (1) (b) genoem, oorskry word, mag die aandele, behoudens die bepalings van subartikels (5), (6) en (7), op naam van die betrokke aandeelhouders geregistreer bly, maar in die geval van 'n oorskryding van die verhouding bedoel in subartikel (1) (a) mag die bankinstelling of bankbeheermaatskappy geen ander aandele op naam van die betrokke aandeelhouer of sy geassosieerdes registreer nie solank die vermelde persentasie van tien persent of die hoër persentasie wat die Minister ingevolge subartikel (2) goedgekeur het, of die persentasie in subartikel (6) bedoel, of, behoudens die bepalings van 'n skema ingevolge subartikel (5) of van 'n onderneming ingevolge subartikel (9), die persentasie van vyftig persent in daardie subartikels genoem, oorskry word, en in die geval van 'n oorskryding van die verhouding bedoel in paragraaf (b) van subartikel (1) mag die bankinstelling of bankbeheermaatskappy geen aandele op naam van enige buitelandse bank of sy geassosieerde of op naam van 'n in daardie paragraaf bedoelde finansiële maatskappy of sy geassosieerde registreer nie solank die vermelde persentasie van dertig persent oorskry word.

(4) Die bepalings van subartikel (3) word nie so vertolk dat solank daar 'n oorskryding van die betrokke verhouding is, aandele nie binne die groep geassosieerdes oorgedra mag word nie.

(5) Indien by die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, aandele in 'n bankinstelling of 'n bankbeheermaatskappy op naam van 'n buitelandse bank of banke geregistreer is waarvan die totale nominale waarde, tesame met dié van aandele wat op naam van bedoelde bank of banke se geassosieerdes geregistreer is, vyftig persent van die totale nominale waarde van die uitgereikte aandele van die bankinstelling of bankbeheermaatskappy, na gelang van die geval, oorskry, moet die bankinstelling of bankbeheermaatskappy binne een jaar na genoemde inwerkingtreding aan die Minister—

(a) 'n skema voorlê waarin die stappe uiteengesit word wat beoog word om binne 'n vir die Minister aanneemlike tydperk die aandeelhouding van die buitelandse bank of banke en sy of hulle geassosieerdes in die bankinstelling of bankbeheermaatskappy te verminder tot 'n totale nominale waarde gelyk aan nie meer nie as vyftig persent van die totale nominale waarde van al die uitgereikte aandele in die bankinstelling of bankbeheermaatskappy; en

(b) 'n onderneming verstrek dat alle aandele wat uitgereik of oorgedra word met die oog op die bereiking van die aandeelhoudingsperk van vyftig persent vermeld in paragraaf (a), geregistreer sal word op naam van binnelandse aandeelhouders.

(6) Indien by die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, aandele in 'n bankinstelling of bankbeheermaatskappy op naam van 'n buitelandse bank of banke geregistreer is waarvan die totale nominale waarde tesame met dié van aandele wat op naam van dié bank of banke se geassosieerdes geregistreer is, die perk vermeld in subartikel (1) (a) oorskry maar minder as vyftig persent bedra van die totale nominale waarde van die uitgereikte aandele van die bank-

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case the percentage ratio mentioned in subsection (1) (a) or in subsection (1) (b) is exceeded, the shares may, subject to the provisions of subsections (5), (6) and (7), remain registered in the names of the relative shareholders, but in the case of the ratio mentioned in subsection (1) (a) being exceeded, the banking institution or bank controlling company shall not register any other shares in the name of the shareholder concerned or his associates as long as the said percentage of ten per cent or such higher percentage as may have been approved by the Minister in terms of subsection (2), or the percentage envisaged in subsection (6) or, subject to the provisions of a scheme in terms of subsection (5) or an undertaking in terms of subsection (9), the percentage of fifty per cent mentioned in those subsections, is exceeded, and in the case of the ratio mentioned in paragraph (b) of subsection (1) being exceeded, the banking institution or bank controlling company shall not register any shares in the name of any foreign bank or its associate or in the name of a financial company mentioned in that paragraph or its associate as long as the said percentage of thirty per cent is exceeded.

(4) The provisions of subsection (3) shall not be construed as meaning that as long as the relative ratio is being exceeded, shares may not be transferred within the group of associates.

(5) If at the commencement of the Financial Institutions Amendment Act, 1976, shares in a banking institution or bank controlling company are registered in the name of a foreign bank or banks the total nominal value of which, together with that of shares registered in the names of associates of such bank or banks, exceeds fifty per cent of the total nominal value of the issued shares of the banking institution or the bank controlling company, as the case may be, the banking institution or bank controlling company shall within one year after the said commencement furnish the Minister—

- (a) with a scheme setting out the steps which are contemplated to reduce within a period acceptable to the Minister, the shareholding of the foreign bank or banks and its or their associates in the banking institution or bank controlling company, to a total nominal value equal to not more than fifty per cent of the total nominal value of all the issued shares in the banking institution or bank controlling company; and
- (b) with an undertaking that all shares issued or transferred with a view to attaining the shareholding limit of fifty per cent mentioned in paragraph (a), shall be registered in the names of domestic shareholders.

(6) If at the commencement of the Financial Institutions Amendment Act, 1976, shares in a banking institution or bank controlling company are registered in the name of a foreign bank or banks of which the total nominal value together with that of shares registered in the names of the associates of the said bank or banks, exceeds the limit mentioned in subsection (1) (a) but is less than fifty per cent of the total nominal value of the issued shares of the banking institution or the bank

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instelling of bankbeheermaatskappy, na gelang van die geval, mag geen aandele op naam van daardie buitelandse bank of banke of op dié van sy of hulle geassosieerdes geregistreer word nie, as dit ten gevolge sal hê dat die verhouding van die totale nominale waarde van die aandele op genoemde name geregistreer tot die totale nominale waarde van al die uitgereikte aandele van die bankinstelling of bankbeheermaatskappy groter sal wees as wat dié verhouding was op die datum van genoemde inwerkingtreding.

(7) Waar in die geval van 'n bankinstelling of bankbeheermaatskappy bedoel in subartikel (5), die gesamentlike aandeelhouding van die buitelandse bank of banke en sy of hulle geassosieerdes tot die in daardie subartikel beoogde perk van vyftig persent verminder is en bedoelde aandeelhouders verdere aandele vervreem, en ook waar die buitelandse bank of banke bedoel in subartikel (2) (b), subartikel (6) of subartikel (8), of sy of hulle geassosieerdes of die maatskappy in subartikel (2) (c) bedoel, van hulle aandele in die bankinstelling of bankbeheermaatskappy vervreem, mag die bankinstelling of bankbeheermaatskappy nie daardie aandele oordra nie op naam van 'n ander persoon as 'n binnelandse aandeelhouer of 'n buitelandse bank deur die Minister goedgekeur, totdat die perk vermeld in subartikel (1) (a) bereik word.

(8) Die bepalings van subartikel (5) is nie van toepassing nie op 'n bankinstelling of bankbeheermaatskappy bedoel in daardie subartikel, indien die totale bedrag van die uitgereikte aandeelkapitaal tesame met die bedrag van die reserwes van die bankinstelling of bankbeheermaatskappy minder as twintigmiljoen rand beloop, en in so 'n geval kan verdere aandele wat die bankinstelling of bankbeheermaatskappy uitreik, op die naam van die buitelandse bank of banke en sy of hulle geassosieerdes geregistreer word totdat die totale bedrag van die uitgereikte aandele en reserwes op die vermelde bedrag te staan kom, waarna alle verdere aandele uitgereik, geregistreer moet word op naam van binnelandse aandeelhouders totdat die totale nominale waarde van alle aandele deur die buitelandse bank of banke en sy of hulle geassosieerdes gehou nie vyftig persent van die nominale waarde van al die uitgereikte aandele van die bankinstelling of bankbeheermaatskappy, na gelang van die geval, oorskry nie.

(9) Ondanks die bepalings van subartikel (5) kan die Minister 'n bankinstelling of bankbeheermaatskappy wat ingevolge daardie subartikel 'n skema moet voorlê, van bedoelde verpligting vrystel indien die bankinstelling of bankbeheermaatskappy 'n skriftelike onderneming verstrek wat vir die Minister aanneemlik is, dat die bankinstelling of bankbeheermaatskappy en die betrokke aandeelhouer of aandeelhouders die beginsel van die vermindering van die buitelandse aandeelhouding soos bepaal in subartikel (5), aanvaar en die nodige stappe sal doen om te verseker dat binne 'n vir die Minister aanneemlike tydperk aan die verhouding van vyftig persent bedoel in subartikel (5) voldoen sal word.

Aansui-  
wering van  
lederegister.

28F. 'n Bankinstelling moet binne ses maande na die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, sy lederegister aansuiwer ten einde aan die bepalings van artikels 28 (2), 28D, 28E, 34 en 34A te kan voldoen."



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controlling company, as the case may be, no shares shall be registered in the name of that foreign bank or banks or in that of its or their associates, if such registration will result in the ratio of the total nominal value of the shares registered in the said names to the total nominal value of all the issued shares of the banking institution or the bank controlling company exceeding that ratio as at the date of the said commencement.

(7) Where in the case of a banking institution or bank controlling company contemplated in subsection (5) the aggregate shareholding of the foreign bank or banks and its or their associates has been reduced to the limit of fifty per cent envisaged in that subsection and those shareholders alienate further shares, and also where the foreign bank or banks mentioned in subsection (2) (b), subsection (6) or subsection (8), or its or their associates or the company mentioned in subsection (2) (c) alienate any of their shares in the banking institution or bank controlling company, the banking institution or bank controlling company shall not transfer those shares into the name of any person other than a domestic shareholder or a foreign bank approved by the Minister, until the limit mentioned in subsection (1) (a) is attained.

(8) The provisions of subsection (5) shall not apply to a banking institution or bank controlling company contemplated in that subsection if the total amount of the issued share capital together with the amount of the reserves of the banking institution or bank controlling company is less than twenty million rand, and in such a case further shares issued by the banking institution or bank controlling company may be registered in the name of the foreign bank or banks and its or their associates until the total amount of the issued capital and reserves reaches the amount mentioned, whereupon all further shares issued shall be registered in the names of domestic shareholders until the total nominal value of all the shares held by the foreign bank or banks and its or their associates does not exceed fifty per cent of the nominal value of all the issued shares of the banking institution or bank controlling company, as the case may be.

(9) Notwithstanding the provisions of subsection (5) the Minister may exempt a banking institution or bank controlling company which in terms of that subsection is required to submit a scheme, from that requirement if the banking institution or bank controlling company furnishes a written undertaking, which is acceptable to the Minister, to the effect that the banking institution or the bank controlling company and the shareholder or shareholders concerned accept the principle of the reduction of the foreign shareholding as provided for in subsection (5) and will take the necessary steps to ensure that the ratio of fifty per cent mentioned in subsection (5) will be complied with within a period which is acceptable to the Minister.

Adjustment  
of register  
of members.

**28F.** A banking institution shall within six months after the commencement of the Financial Institutions Amendment Act, 1976, adjust its register of members so as to enable it to comply with the provisions of sections 28 (2), 28D, 28E, 34 and 34A."

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Vervanging van artikel 29 van Wet 23 van 1965.

51. Artikel 29 van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

„Beperking op sekere bedrywighede van bankinstellings. 29. (1) 'n Handelsbank mag nie in die Republiek besigheid dryf deur iemand wat nie heeltyds in sy diens staan nie: Met dien verstande dat so 'n bank deposito's deur 'n agent kan werf en aan so 'n agent kommissie ten opsigte daarvan kan betaal.

(2) 'n Ander bankinstelling as 'n handelsbank mag nie sonder die skriftelike goedkeuring van die registrator geld op deposito aanneem wat deur middel van tjeks opvraagbaar is nie, tensy hy voor 1 Januarie 1975 bedoelde fasiliteit aangebied het.”.

Wysiging van artikel 34 van Wet 23 van 1965.

52. Artikel 34 van die Bankwet, 1965, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

„(5) 'n Bankinstelling (uitgesonderd 'n bankinstelling wat geen aandeelkapitaal het nie) moet binne 'n tydperk van negentig dae vanaf die datum van sy registrasie of voorlopige registrasie ingevolge hierdie Wet, en daarna binne 'n tydperk van negentig dae vanaf die eerste dag van iedere boekjaar van die instelling of vanaf 'n ander datum wat die registrator ingevolge paragraaf (a) vasstel, die registrator van 'n lys voorsien, wat deur die instelling se hoof- uitvoerende beampte in die Republiek as juis gesertifiseer is, waarin, onder afsonderlike afdelings vir binnelandse en buitelandse aandeelhouders en met aanduiding van die totale nominale waarde van die aandele in elkeen van die afdelings, vermeld word—

(a) die name, in alfabetiese volgorde (maar met samegroepering van aandeelhouders wat geassosieerdes van mekaar is), en die adresse van die aandeelhouders of lede van die instelling aan die einde van die instelling se jongste voorafgaande boekjaar of op 'n ander datum wat die registrator op versoek van die bankinstelling bepaal, of, as die instelling nog nie sy eerste boekjaar voltooi het op die datum waarop die lys soos vermeld voorsien word nie, op die dag van die instelling se registrasie of voorlopige registrasie ingevolge hierdie Wet;

(b) die getal aandele, die nominale waarde van die aandele en die persentasie wat dit verteenwoordig van die totale nominale waarde van al die uitgereikte aandele van die instelling, wat elke sodanige aandeelhouer of lid in die instelling besit of enige ander belang wat hy daarby het, en die bedrag wat hy daarop betaal het op die datum waarop die lys betrekking het;

(c) in die geval van binnelandse aandeelhouders, of die aandeelhouer 'n geregistreerde bankinstelling, 'n geregistreerde bankbeheermaatskappy, 'n finansiële maatskappy of 'n ander persoon is, en, in die geval van buitelandse aandeelhouders, of die aandeelhouer 'n bank of finansiële maatskappy of 'n ander persoon is:

Met dien verstande dat 'n instelling geag word die bepalinge van hierdie subartikel na te gekom het ten opsigte van 'n binnelandse aandeelhouer of lid wat minder as een persent van die instelling se geplaaste kapitaal besit, en ten opsigte van 'n buitelandse aandeelhouer of lid wat aandele in die instelling besit waarvan die nominale waarde minder is as vyf-en-twintigduisend rand of 'n bedrag wat een persent van die nominale waarde van al die uitgereikte aandele van die instelling verteenwoordig, watter ook al die kleinste is, indien die getal sodanige aandeelhouders of lede in die betrokke lys vermeld word.”.

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**51.** The following section is hereby substituted for section 29 of the Banks Act, 1965:

Substitution of section 29 of Act 23 of 1965.

**“Limitation on certain activities of banking institutions.** 29. (1) A commercial bank shall not carry on any business in the Republic through a person who is not its full-time servant: Provided that such a bank may raise deposits through an agent and pay commission to such agent in respect thereof.

(2) A banking institution other than a commercial bank shall not without the written approval of the Registrar accept deposits of money withdrawable by cheque unless it offered that facility prior to 1 January 1975.”.

**52.** Section 34 of the Banks Act, 1965, is hereby amended by the substitution for subsection (5) of the following subsection:

Amendment of section 34 of Act 23 of 1965.

“(5) A banking institution (other than a banking institution which has no share capital), shall, within a period of ninety days as from the date of its registration or provisional registration under this Act, and thereafter within a period of ninety days as from the first day of every financial year of the institution or as from such other date as the Registrar may in terms of paragraph (a) determine, furnish the Registrar with a list, certified as correct by the institution's chief executive officer in the Republic, wherein, under separate sections for domestic and foreign shareholders and indicating the total nominal value of the shares in each of the sections, are set forth—

- (a) the names in alphabetical order (but with shareholders which are associates of one another grouped together) and the addresses of the shareholders or members of the institution, as at the end of the institution's last preceding financial year or as on such other date as the Registrar may at the request of the banking institution determine, or as on the date of the institution's registration or provisional registration under this Act if on the day when the list is furnished as aforesaid the institution has not completed its first financial year;
- (b) the number of shares, the nominal value of the shares and the percentage it represents of the total nominal value of all the issued shares of the institution, or any other interest in the institution held by every such shareholder or member, and the amount which he has paid up thereon on the date to which the list relates;
- (c) in the case of domestic shareholders, whether the shareholder is a registered banking institution, a registered bank controlling company, a financial company or other person, and, in the case of foreign shareholders, whether the shareholder is a bank or a financial company or other person:

Provided that an institution shall be deemed to have complied with the provisions of this subsection in respect of any domestic shareholder or member holding less than one per cent of the institution's subscribed capital, and in respect of a foreign shareholder or member who holds shares in the institution of which the nominal value is less than twenty-five thousand rand or an amount representing one per cent of the nominal value of all the issued shares of the institution, whichever is the smaller, if the number of such shareholders or members is set forth in the list in question.”.

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Invoeging van artikel 34A in Wet 23 van 1965.

53. Die volgende artikel word hierby in die Bankwet, 1965, na artikel 34 ingevoeg:

„Lyste van direkteure en aandeelhouders van bankbeheermaatskappy moet aan registrateur verskaf word.

34A. 'n Geregistreeerde bankbeheermaatskappy moet binne negentig dae vanaf sy registrasie en daarna binne negentig dae vanaf die eerste dag van iedere boekjaar van die maatskappy die registrateur voorsien van lyste soos in subartikels (1) en (5) van artikel 34 bedoel en gesertifiseer op die wyse in daardie subartikels beskryf.”

Wysiging van artikel 1 van Wet 24 van 1965, soos gewysig deur artikel 1 van Wet 64 van 1968 en artikel 5 van Wet 67 van 1973.

54. Artikel 1 van die Bouverenigingswet, 1965, word hierby gewysig deur in die omskrywing van „voorgeskrewe beleggings” die woord „en” aan die end van paragraaf (i) te skrap en paragraaf (j) deur die volgende paragrawe te vervang:

- „(j) wissels, skuldbriewe of effekte uitgereik deur of lenings aan 'n Bantoesake-administrasieraad ingestel ingevolge die Wet op die Administrasie van Bantoesake, 1971 (Wet No. 45 van 1971);
- (k) die wissels, skuldbriewe of effekte wat die registrateur by kennisgewing in die *Staatskoerant* en onderworpe aan die voorwaardes wat hy in die kennisgewing uiteensit, vir die doeleindes van hierdie omskrywing goedkeur, en wissels, skuldbriewe of effekte uitgereik deur 'n instelling wat hy insgelyks goedkeur; en
- (l) wissels, skuldbriewe of effekte uitgereik deur die regering van of 'n plaaslike bestuur in 'n ander gebied as die Republiek wat die registrateur by kennisgewing in die *Staatskoerant* en onderworpe aan die voorwaardes wat hy in sodanige kennisgewing uiteensit, vir die doeleindes van hierdie omskrywing goedkeur, en dié uitgereik deur 'n instelling in so 'n goedgekeurde gebied wat hy insgelyks goedkeur;”.

Wysiging van artikel 37 van Wet 24 van 1965, soos gewysig deur artikel 9 van Wet 23 van 1970.

55. Artikel 37 van die Bouverenigingswet, 1965, word hierby gewysig deur subartikel (5A) deur die volgende subartikel te vervang:

„(5A) Waar 'n vereniging op 5 Augustus 1969 of daarna 'n vastetermynaandeel uitgegee het met die spesifieke onderneming dat die diwidendkoers gedurende die volle termyn van uitgifte van die aandeel onveranderd sal bly, is die bepalings van subartikels (2) en (5) nie van toepassing nie: Met dien verstande dat—

- (a) so 'n aandeel nie voor die verstryking van die termyn van uitgifte deur die vereniging afgelos word nie behalwe in die omstandighede vermeld in paragraaf (a), (c), (d), (e) of (f) van die tweede voorbehoudsbepaling by artikel 28 (6); en
- (b) 'n vereniging nie 'n lening teen sekuriteit van so 'n aandeel verstrek nie.”.

Wysiging van artikel 67 van Wet 24 van 1965, soos gewysig deur artikel 14 van Wet 64 van 1968.

56. Artikel 67 van die Bouverenigingswet, 1965, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

„(3) Die raad of die hoofouditeure handelende met die toestemming van die raad kan 'n takouditeur vir enige tak van die vereniging aanstel wat aftree by afsluiting van die vereniging se eerste jaarlikse algemene vergadering na sy aanstelling, tensy hy eerder by besluit van die lede van die vereniging op 'n algemene vergadering van sy amp onthef word, of tensy hy weer aangestel word.”.

## FINANCIAL INSTITUTIONS AMENDMENT ACT, 1976

Act No. 101, 1976

53. The following section is hereby inserted in the Banks Act, 1965, after section 34:

Insertion of section 34A in Act 23 of 1965.

"Lists of directors and shareholders of bank controlling company to be furnished to registrar.

34A. A registered bank controlling company shall within a period of ninety days as from its registration and thereafter within a period of ninety days as from the first day of every financial year of the company furnish the registrar with such lists as are referred to in subsections (1) and (5) of section 34, certified in the manner indicated in those subsections."

54. Section 1 of the Building Societies Act, 1965, is hereby amended by the deletion of the word "and" at the end of paragraph (i) of the definition of "prescribed investments" and the substitution for paragraph (j) of that definition of the following paragraphs:

Amendment of section 1 of Act 24 of 1965, as amended by section 1 of Act 64 of 1968 and section 5 of Act 67 of 1973.

- "(j) bills, bonds or securities issued by or loans to a Bantu Affairs Administration Board established in terms of the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971);
- (k) such bills, bonds or securities as the registrar may by notice in the *Gazette* approve for the purposes of this definition subject to such conditions as he may specify in such notice, and bills, bonds or securities issued by an institution which he may likewise approve; and
- (l) bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the registrar may by notice in the *Gazette* approve for purposes of this definition subject to such conditions as he may specify in such notice, and also those issued by an institution in such approved territory which he may likewise approve;"

55. Section 37 of the Building Societies Act, 1965, is hereby amended by the substitution for subsection (5A) of the following subsection:

Amendment of section 37 of Act 24 of 1965, as amended by section 9 of Act 23 of 1970.

"(5A) Where a society issued a fixed period share on or after 5 August 1969 with the specific undertaking that the dividend rate during the full currency of the share will remain unaltered, the provisions of subsections (2) and (5) shall not apply: Provided that—

- (a) such a share shall not be redeemed by the society before the expiry of the period of issue except in the circumstances set forth in paragraph (a), (c), (d), (e) or (f) of the second proviso to section 28 (6); and
- (b) a society shall not grant a loan against the security of such a share."

56. Section 67 of the Building Societies Act, 1965, is hereby amended by the substitution for subsection (3) of the following subsection:

Amendment of section 67 of Act 24 of 1965, as amended by section 14 of Act 64 of 1968.

"(3) The board or the main auditors acting with the consent of the board may appoint a branch auditor to any branch of the society who shall retire at the conclusion of the society's first annual general meeting following his appointment unless previously removed from office by a resolution of the members of the society at a general meeting or unless he is re-appointed."

Wet No. 101, 1976

WYSIGINGSWET OP FINANSIËLE INSTELLINGS, 1976

Kort titel en  
inwerkingtreding.

57. (1) Hierdie Wet heet die Wysigingswet op Finansiële Instellings, 1976.

(2) Die bepalings van artikel 5 (b), (c) en (d) word geag op 31 Desember 1974 in werking te getree het, dié van artikels 18 en 20 op 1 Oktober 1975, dié van artikel 34 (b) op 1 November 1975, en dié van artikel 55 op 1 Julie 1975.

(3) Die ander bepalings van hierdie Wet tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(4) Verskillende datums kan ingevolge subartikel (3) ten opsigte van verskillende sodanige bepalings bepaal word.

FINANCIAL INSTITUTIONS AMENDMENT ACT, 1976

Act No. 101, 1976

57. (1) This Act shall be called the Financial Institutions Amendment Act, 1976. Short title and commencement.

(2) The provisions of section 5 (b), (c) and (d) shall be deemed to have come into operation on 31 December 1974, those of sections 18 and 20 on 1 October 1975, those of section 34 (b) on 1 November 1975, and those of section 55 on 1 July 1975.

(3) The other provisions of this Act shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(4) Different dates may in terms of subsection (3) be fixed in respect of different such provisions.