



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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No. 11942

KAAPSTAD, 14 JUNIE 1989

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1203.

14 June 1989

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

No. 90 of 1989: South African Reserve Bank Act, 1989.

No. 1203.

14 Junie 1989

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

No. 90 van 1989: Wet op die Suid-Afrikaanse Reserwebank, 1989.

ACT

To consolidate the laws relating to the South African Reserve Bank and the monetary system of the Republic; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 1 June 1989.)*

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

Definitions

1. In this Act, unless the context otherwise indicates—

- (i) "Bank" means the South African Reserve Bank established by section 9 of the Currency and Banking Act; (ii) 5
- (ii) "banking institution" means a banking institution as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965); (iii)
- (iii) "Board" means the board of directors referred to in section 4 (1); (xi) 10
- (iv) "building society" means a building society as defined in section 1 of the Building Societies Act, 1986 (Act No. 82 of 1986); (v) 10
- (v) "Currency and Banking Act" means the Currency and Banking Act, 1920 (Act No. 31 of 1920); (iv)
- (vi) "Department of Finance" includes the Minister or any officer in the Department of Finance authorized by the Minister to perform any function assigned to that Department in this Act; (vi) 15
- (vii) "Deputy Governor" means a person appointed under section 4 or 6 (1) (a) as a Deputy Governor of the Bank; (xvii)
- (viii) "Government representative" means a member of the Board appointed under section 4 or 6 (1) (a), but does not include the Governor or a Deputy 20 Governor; (xii)
- (ix) "Governor" means the person appointed under section 4 or 6 (1) (a) as the Governor of the Bank; (x)
- (x) "Minister" means the Minister of Finance; (viii)
- (xi) "mutual building society" means a mutual building society as defined in section 1 of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965); (ix) 25
- (xii) "Republic" includes the territory; (xiii)
- (xiii) "shareholder" means any holder of shares in the Bank; (i)
- (xiv) "shareholders' representative" means a member of the Board elected under section 4 or elected or appointed under section 6 (1) (b); (xvi) 30
- (xv) "special drawing right" means a unit of an international reserve asset provided for in the Articles of Agreement of the International Monetary Fund; (xiv)
- (xvi) "territory" means the territory of South West Africa; (vii) 35
- (xvii) "Treasury" includes the Minister or any officer in the Department of Finance authorized by the Minister to perform any function assigned to the Treasury in this Act. (xv)

South African Reserve Bank a juristic person

2. The Bank shall be a juristic person.

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Primary objectives of Bank

3. In the exercise of its powers and the performance of its duties the Bank shall pursue as its primary objectives monetary stability and balanced economic growth in the Republic, and in order to achieve those objectives the Bank shall influence the total monetary demand in the economy through the exercise of control over the money supply and over the availability of credit. 5

Board of directors

4. (1) The Bank shall be managed by a board of fourteen directors, consisting of a Governor, three Deputy Governors (of whom one shall be designated by the State President as Senior Deputy Governor) and three other directors appointed by the State President, and seven directors elected by the shareholders. 10

(2) (a) The Governor shall be a person of tested banking experience.

(b) No person who is a director, officer or employee of a banking institution, mutual building society or building society shall be appointed as or remain Governor or Deputy Governor. 15

(3) Of the directors elected by the shareholders—

(a) four shall be persons who are or have been actively and primarily engaged in commerce or finance;

(b) one shall be a person who is or has been so engaged in agriculture; and

(c) two shall be persons who are or have been so engaged in industrial pursuits. 20

(4) No person shall be appointed or elected as or remain a director—

(a) if he is not a South African citizen resident in the Republic; or

(b) if he is a director, officer or employee of a banking institution, mutual building society or building society; or

(c) if he is a member of— 25

(i) Parliament;

(ii) the legislative assembly of a self-governing territory as defined in section 38 (1) of the National States Constitution Act, 1971 (Act No. 21 of 1971);

(iii) the National Assembly referred to in section 2 of the South West African Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation No. R. 101 of 1985); or

(iv) the President's Council. 30

Tenure and conditions of office of directors

5. (1) The Governor and the Deputy Governors shall hold office for a period of five years, and the other directors shall hold office for a period of three years. 35

(2) A director shall be eligible for re-appointment or re-election, as the case may be, after the expiration of his term of office.

(3) Directors (including the Governor and Deputy Governors) shall hold office upon such conditions as to remuneration (including allowances) as may be determined by the Board, and upon such other conditions as may be prescribed by regulation. 40

(4) The Governor and the Deputy Governors shall devote the whole of their time to the business of the Bank: Provided that the provisions of this subsection shall not be construed as prohibiting the Governor or a Deputy Governor from accepting or holding any office to which he may be appointed by or with the approval of the State President or the Minister. 45

Casual vacancies

6. (1) A casual vacancy on the Board shall be filled—

(a) in the case of the Governor or a Deputy Governor or of a Government representative, by the appointment by the State President of another person; 50

(b) in the case of a shareholders' representative, by the election by the shareholders of a person who would be qualified to be elected in the place of the director whose office has become vacant, or by the appointment by the Board, subject to confirmation at the next ordinary general meeting of the shareholders, of a person so qualified. 55

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(2) Any person appointed or elected under subsection (1) shall hold office, in the case of the Governor or a Deputy Governor, for a period of five years, and in the case of any other director, for the unexpired portion of the period for which the director whose office has become vacant, was appointed or elected.

Procedure and quorum

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7. (1) The Governor shall preside at the meetings of the Board, and in his absence from any meeting, the Deputy Governor designated by the Governor shall preside: Provided that the Minister may designate any other director to act as chairman of the Board during the Minister's pleasure and that such director shall in that capacity preside at such meetings as he may be present at.

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(2) If the other director who is by virtue of the proviso to subsection (1) required to preside at a meeting of the Board is absent from that meeting, the Governor or, in his absence, a Deputy Governor designated by him, shall preside at that meeting, and if the said other director as well as the Governor and the said designated Deputy Governor are absent from that meeting, the directors who are present may elect one of their number to preside at that meeting.

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(3) The quorum for a meeting of the Board shall be seven directors.

(4) The decision of the majority of directors present at any meeting shall constitute the decision of the Board.

(5) The person presiding at any meeting shall have a deliberative vote and, in addition, in the event of an equality of votes, a casting vote.

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Delegation of powers

8. (1) The Board may from time to time delegate to the Governor or any Deputy Governor or any officer of the Bank any of its powers for such period and purposes and subject to such terms, conditions or restrictions as it may deem fit.

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(2) The Governor or any Deputy Governor may assign the exercise of any power delegated to him by the Board under subsection (1), to a Deputy Governor or an officer of the Bank for a particular period or purpose, and any power the exercise of which has been so assigned, shall be exercised subject to the same terms, conditions or restrictions imposed by the Board when delegating the power to the Governor or Deputy Governor.

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Validity of Board's decisions and acts

9. No decision or act of the Board or act performed under the authority of the Board shall be invalid by reason only of the fact that—

(a) the Board did not consist of the full number of directors prescribed in section 4 (1); or

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(b) a disqualified person or a person with respect to whose election as director the provisions of the regulations had not been observed, sat or acted as a director,

at the time when the decision was taken or the act was performed or authorized, provided, in the case where such disqualified or invalidly elected person sat or acted as a director, the directors who were present at the time and who were in fact entitled to sit or act as directors constituted a quorum, and a majority of the last-mentioned directors voted in favour of the decision taken or the act performed or authorized.

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Powers and duties of Bank

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10. (1) The Bank may, subject to the provisions of section 13—

(a) (i) make banknotes or cause banknotes to be made;

(ii) coin coins or cause coins to be coined;

(iii) issue banknotes and coins, or cause banknotes and coins to be issued, for use in the Republic;

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- (iv) make, or cause to be made, banknotes to be issued for use in another State, and coin, or cause to be coined, coins to be so issued; and
- (v) destroy banknotes and coins or cause them to be destroyed;
- (b) with the object of making banknotes or coining coins, and with any object incidental thereto, form companies in accordance with the provisions of the Companies Act, 1973 (Act No. 61 of 1973), and take up shares in such companies; 5
- (c) establish, organize and participate in a clearing system and take up shares in a company formed for the management and operation of any such system; 10
- (d) acquire shares in a limited company formed and registered in accordance with the provisions of the Companies Act, 1973, if the Board is of the opinion that any such acquisition will be conducive to the attainment of any of the objects of this Act;
- (e) accept money on deposit, allow interest on any deposit or on a portion of a deposit and collect money for other persons; 15
- (f) grant loans and advances: Provided that unsecured loans and advances may be granted only in the following cases, namely—
 - (i) an unsecured loan to the Government of the Republic or to a company referred to in paragraph (b) or, with the approval of the Board, to any company in which the Bank has acquired shares in accordance with the provisions of paragraph (d); 20
 - (ii) an unsecured loan or advance, at such rate of interest as the Board may from time to time determine, to an officer or employee of the Bank—
 - (aa) in order to enable such officer or employee to acquire a dwelling for his own use, in a case where, owing to the nature of the rights of the officer or employee in respect of the property in question, such property cannot in law be mortgaged in favour of the Bank; 25
 - or
 - (bb) for the purposes of the implementation of a motor-car scheme which, in terms of the rules made by the Board under section 35, forms part of the conditions of service of the officer or employee; 30
- (g) buy, sell, discount or re-discount bills of exchange drawn or promissory notes issued for commercial, industrial or agricultural purposes, or exchequer bills of the Government of the Republic or of the government of any other country, or securities of a local authority in the Republic; 35
- (h) buy and sell securities;
- (i) issue its own interest-bearing securities for purposes of monetary policy and buy, sell, discount or re-discount, or grant loans or advances against, such securities; 40
- (j) subject to the provisions of section 13 (a) and (b), enter into repurchase agreements with any institution in respect of interest-bearing securities or such other securities as the Bank may determine;
- (k) buy, sell or deal in precious metals and hold in safe custody for other persons gold, securities or other articles of value; 45
- (l) buy and sell foreign currencies;
- (m) buy, sell, accept or deal in special drawing rights;
- (n) open credits and issue guarantees;
- (o) effect transfers in accordance with generally accepted banking practice, and sell drafts drawn on its branches and correspondents; 50
- (p) establish branches or appoint agents and correspondents in or outside the Republic;
- (q) open accounts in foreign countries and act as agent or correspondent of any bank carrying on business in or outside the Republic;
- (r) make arrangements or enter into agreements with any institution in a foreign country to borrow, in such manner, at such rate of interest and subject to such other terms and conditions as the Bank may deem fit, any foreign currency which the Bank may consider it expedient to acquire; 55
- (s) perform such other functions of bankers and financial agents as central banks customarily may perform; 60

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- (t) lend or advance money on security of a mortgage of immovable property or of a notarial or other bond or a cession thereof, to any officer or employee or former officer or employee of the Bank for the purpose of enabling any such officer or employee to acquire a dwelling for his own use: Provided that— 5
- (i) if the Board is of the opinion that the value of any security held against any loan or advance is insufficient, the Bank may accept as additional security a mortgage bond on immovable property or any other security approved by the Board; and
- (ii) if any immovable property so mortgaged is sold for the purpose of satisfying the mortgage debt and the purchase price obtainable is insufficient to cover the whole of the Bank's claim in connection with the mortgage, the Bank may buy in that property and realize it at such time and in such manner as the Board may determine; 10
- (u) acquire immovable property required by the Bank for business purposes or for the purpose of providing a dwelling for any officer of the Bank, and sell, dispose of, donate or otherwise alienate any such immovable property: Provided that a donation of such immovable property may only be made with the approval of the Board; 15
- (v) perform the functions assigned to the Bank by the Banks Act, 1965 (Act No. 23 of 1965), the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), and the Building Societies Act, 1986 (Act No. 82 of 1986). 20
- (2) The rates at which the Bank will discount or re-discount the various classes of bills, promissory notes and other securities, shall be determined and announced by the Bank from time to time. 25

Appointment of inspectors

11. (1) The Bank may appoint inspectors (in either a permanent or a temporary capacity) to carry out inspections of the affairs, or of any part thereof, of a banking institution as defined in the Banks Act, 1965 (Act No. 23 of 1965), a mutual building society as defined in the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), and a building society as defined in the Building Societies Act, 1986 (Act No. 82 of 1986). 30
- (2) The provisions of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984), except sections 2 and 7 thereof, shall *mutatis mutandis* apply in respect of an inspection carried out in terms of subsection (1). 35
- (3) Every inspector so appointed shall be furnished with a certificate stating that he has been appointed as an inspector under this Act.

Inspection of affairs of person, partnership, close corporation, company or other juristic person not registered as banking institution, mutual building society or building society 40

12. (1) If the Governor or a Deputy Governor has reason to suspect that any person, partnership, close corporation, company or other juristic person who or which is not registered in terms of the Banks Act, 1965 (Act No. 23 of 1965), as a banking institution, in terms of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), as a mutual building society or in terms of the Building Societies Act, 1986 (Act No. 82 of 1986), as a building society, is carrying on the business of a banking institution, a mutual building society or a building society, he may— 45
- (a) if it is so suspected that the business of a banking institution is being carried on, direct the Registrar of Banks referred to in section 3 of the Banks Act, 1965; or 50
- (b) if it is so suspected that the business of a mutual building society or a building society is being carried on, direct the Registrar of Building Societies referred to in section 5 of the Building Societies Act, 1986, to cause the affairs or any part of the affairs of such person, partnership, close corporation, company or other juristic person to be inspected by an inspector appointed under section 11 (1), in order to establish whether or not the business of 55

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a banking institution, mutual building society or building society, as the case may be, is being carried on by that person, partnership, close corporation, company or other juristic person.

(2) The provisions of sections 4, 5, 8 and 9 of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984), shall apply *mutatis mutandis* in respect of an inspection carried out in terms of subsection (1).

Prohibited business**13. The Bank may not—**

- (a) purchase its own shares or grant loans or advances upon the security thereof;
- (b) without the consent of the Minister, purchase the shares of any banking institution or building society or grant loans or advances upon the security thereof;
- (c) subject to the provisions of section 10 (1) (t) and (u), lend or advance money on security of a mortgage of immovable property or of a notarial or other bond or a cession thereof, or acquire immovable property;
- (d) buy, discount or re-discount bills of exchange or promissory notes drawn or issued for commercial and industrial purposes, which have a maturity exceeding 120 days;
- (e) buy, discount or re-discount bills of exchange or promissory notes drawn or issued for agricultural purposes, which have a maturity exceeding six months;
- (f) hold in stocks of the Government of the Republic which have been acquired directly from the Treasury by subscription to new issues, the conversion of existing issues or otherwise, a sum exceeding its paid-up capital and reserve fund plus one-third of its liabilities to the public in the Republic.

Issue of banknotes and coins

14. (1) The Bank shall have the sole right to issue or cause to be issued banknotes and coins in the Republic: Provided that all coins which at the commencement of the South African Reserve Bank Amendment Act, 1989, were lawfully in circulation and legal tender in the Republic, shall as such remain in circulation until they are withdrawn from circulation in accordance with the provisions of section 19, or are no longer of the current mass prescribed in Schedule 2 in respect of the denomination in question.

(2) The Bank shall not issue or cause to be issued any banknote of a denomination, in a form or of a material not approved by the Department of Finance.

(3) The Bank shall not re-issue or cause to be re-issued any banknote which is torn or wholly or partially defaced or soiled.

(4) The Bank shall not be obliged to make any payment in respect of a torn banknote or a banknote which, in the opinion of the Bank, is mutilated and which may be tendered to it, but may, in its discretion, make a payment in respect of such banknote.

(5) The Bank shall not issue or cause to be issued any coin made otherwise than in accordance with the prescriptions of section 16 (1): Provided that the Bank may after the commencement of the South African Reserve Bank Amendment Act, 1989, continue to issue or cause to be issued coins made in accordance with the provisions of the South African Mint and Coinage Act, 1964 (Act No. 78 of 1964), as those provisions existed immediately prior to the repeal thereof by the said Amendment Act, until such time as the Minister may in writing direct the Bank to discontinue such issue.

(6) The Bank shall not re-issue or cause to be re-issued any coin which is mutilated or worn away.

(7) The Bank shall not be obliged to make any payment in respect of a coin which, in the opinion of the Bank, is mutilated or worn away and which may be tendered to it, but may, in its discretion, make a payment in respect of such coin.

Monetary unit

15. (1) Subject to the provisions of section 14 (1), the monetary unit of the Republic shall be the rand (abbreviated as R), and the cent (abbreviated as c), which is one hundredth part of the rand.

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(2) The respective values, in rand and cent, of coins manufactured and issued under other designations than rand and cent and which by virtue of the provisions of section 14 (1) remain in circulation, shall be as set out in the table hereunder:

TABLE

<i>Coin in circulation under the designation of—</i>	<i>Value in rand and cent:</i>	
Pound/sovereign	Two rand	5
Half-pound/half-sovereign	One rand	
Crown.....	Fifty cents	
Half-crown.....	Twenty-five cents	
Florin	Twenty cents	10
Shilling.....	Ten cents	
Sixpence	Five cents	
Threepence	Two-and-a-half cents	
Penny	Ten-twelfths of a cent	
Half-penny	Five-twelfths of a cent	15
Farthing.....	Five twenty-fourths of a cent	

Denominations, material, standard mass and standard fineness of coins

16. (1) The Bank may make or cause to be made coins of the denominations and with the mass set out in Schedule 2, and which are made of gold, platinum, silver, nickel, copper, tin, zinc or steel, or alloys of those metals, of the standard fineness 20 so set out: Provided that in the making of such coins a remedy (or deviation from the standard mass or standard fineness determined in Schedule 2 in respect of the coin in question) of an amount not exceeding the remedy specified in Schedule 2 shall be allowed.

(2) The Minister may from time to time amend Schedule 2 by notice in the *Gazette*. 25

(3) A notice issued under subsection (2) shall come into operation on a date specified therein, and the provisions thereof shall have force of law as if they were enacted in Schedule 2.

(4) The Minister shall within fourteen days after the date of publication in the *Gazette* of a notice issued under subsection (2), lay a copy thereof upon the Tables 30 in Parliament, if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

Legal tender

17. (1) A tender, including a tender by the Bank itself, of a note of the Bank or 35 of an outstanding note of another bank for which the Bank has assumed liability in terms of section 15 (3) (c) of the Currency and Banking Act or in terms of any agreement entered into with another bank before or after the commencement of this Act, shall be a legal tender of payment of an amount equal to the amount specified on the note. 40

(2) A tender, including a tender by the Bank itself, of an undefaced and un mutilated coin which is lawfully in circulation in the Republic and of current mass, shall be a legal tender of payment of money—

- (a) in the case of gold coins, in settlement of any amount, and the value of each gold coin so tendered shall be equal to the net amount at which the bank is 45 prepared to purchase that gold coin on the day of such tender thereof; and
- (b) in the case of other coins, in settlement, per individual transaction, of a total amount not exceeding—
 - (i) fifty rand, where coins of the denomination of one rand or higher are 50 so tendered;
 - (ii) five rand, where coins of denominations of ten cents up to and including fifty cents are so tendered;
 - (iii) fifty cents, where coins of the denomination of five cents or less are so tendered,
 and the value of each coin so tendered shall be equal to the amount 55 specified on that coin.

References to amounts in terms of coins issued under Coinage Act, 1922

18. Any reference in any law, deed, instrument, security for money or other document or in any contract or agreement, whether in writing or not, and any

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reference in any other manner whatsoever to an amount determined on the basis of the coins specified in the Schedule to the Coinage Act, 1922 (Act No. 31 of 1922), shall be construed as including a reference to an equivalent amount determined on the basis of the coins specified in subsection (1) of section 16 and in accordance with the respective values of such last-mentioned coins in comparison with the coins specified in that Schedule, as set out in subsection (2) of section 15, and any such reference to an amount determined on the basis of the coins specified in subsection (1) of section 16, shall be construed as including a reference to an equivalent amount determined on the basis of the coins specified in that Schedule and in accordance with the said respective values.

Powers of Minister in respect of coins

19. (1) The Minister may from time to time by notice in the *Gazette*—

(a) determine the dimensions of and design for any coin as well as the compilation of any series of coins; and

(b) authorize the withdrawal from circulation of—

(i) so many coins as he may deem to be in excess of requirements;

(ii) coins of a specified date or of specified dates or of a specified denomination or of specified denominations.

(2) A notice issued under subsection (1) shall come into operation on a date specified therein, and the provisions thereof shall have force of law as if they were enacted in this Act.

Bank exempt from tax on banknotes

20. The Bank shall in respect of banknotes which it manufactures, causes to be manufactured, acquires for issue, issues or causes to be issued, be exempt from any tax or duty.

Share capital of Bank

21. (1) The share capital of the Bank shall be two million rand, and shall be divided into two million ordinary shares of one rand each.

(2) The liability of a shareholder shall be limited to the amount unpaid on the shares held by him.

(3) The Bank may, from time to time, with the consent of the Board, increase its share capital by the issue of shares upon such terms as the Board may approve.

(4) The premium obtained on any issue of shares shall be added to the reserve fund of the Bank.

Restriction of right to hold or acquire shares in Bank

22. (1) Subject to the provisions of subsection (2), no shareholder shall hold more than 10 000 shares in the Bank.

(2) A shareholder holding more than 10 000 shares in the Bank at the commencement of this Act, may continue to hold those shares, but shall not, as long as he holds more than 10 000 of those shares, acquire any further shares in the Bank.

(3) If at any time the number of shares in the Bank held by a shareholder referred to in subsection (2) is reduced to 10 000 or less, the restriction laid down in subsection (1) shall apply also to that shareholder.

(4) No shares in the Bank shall be held in the name of or transferred to a nominee.

(5) If at the commencement of the South African Reserve Bank Amendment Act, 1989, shares are registered contrary to the provisions of subsection (4), the Bank shall forthwith take steps to register those shares in the name of the beneficial owner thereof.

Votes

23. (1) Subject to the provisions of subsections (2) and (3), a shareholder shall, at a meeting of shareholders, be entitled to one vote in respect of every 200 shares of which he has been the registered holder for not less than six months prior to the date of the meeting.

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(2) No shareholder referred to in subsection (2) of section 22 shall either directly or indirectly exercise any vote as a shareholder in respect of the number of shares in the Bank held by him in excess of 10 000, and no group of companies with interlocking directorates shall either directly or indirectly exercise any vote as shareholders in respect of the total number of shares in the Bank held by those companies in excess of 10 000. 5

(3) A shareholder who is not ordinarily resident in the Republic shall not be entitled to any vote at any meeting of shareholders.

Allocation of surplus

24. Of the surplus (if any) remaining at the end of a financial year of the Bank after provision has been made for— 10

- (a) bad and doubtful debts;
- (b) depreciation in assets;
- (c) gratuities or other pension benefits for its officers and employees;
- (d) all such items as are usually provided for by bankers; and 15
- (e) the payment to the shareholders, out of net profits, of a dividend at the rate of ten per cent per annum on the paid-up share capital of the Bank,

one tenth shall be allocated to the reserve fund of the Bank and nine tenths shall be paid to the Government.

Statutory price of gold and Gold Price Adjustment Account 20

25. (1) All gold of the Bank shall be valued at such price per such mass of fine gold (hereinafter referred to as the statutory price) as may be determined from time to time by the Minister after consultation with the Bank, and that price shall as soon as may be practicable after such determination thereof be published in the *Gazette*.

(2) All gold of the Bank shall be traded for the profit or loss of the Government. 25

(3) The Bank shall establish a Gold Price Adjustment Account in which it shall account for—

- (a) any profit or loss relating to gold of the Bank as a result of a change in the statutory price;
- (b) any difference between the statutory price and the price at which the Bank buys or sells gold after due allowance for handling and realization costs. 30

Foreign Exchange Adjustment Account

26. (1) All assets of the Bank expressed in currencies other than the currency of the Republic, including special drawing rights but excluding any dividends, discount or interest or the usual exchange margins in connection therewith, shall be for the profit or loss of the Government. 35

(2) The Bank shall establish a Foreign Exchange Adjustment Account in which it shall account for—

- (a) any loss suffered by the Bank on the assets referred to in subsection (1) as a result of the depreciation of the currencies in question in relation to the currency of the Republic; 40
- (b) any profit made by the Bank on the assets referred to in subsection (1) as a result of the appreciation of the currencies in question in relation to the currency of the Republic.

Forward Exchange Contracts Adjustment Account 45

27. (1) Any profit or loss on—

- (a) any current or future forward exchange contract entered into by the Bank, but excluding the usual exchange margins earned or paid thereon;
- (b) any amount borrowed by the Bank in any currency other than the currency of the Republic, but excluding any interest, commission or other charges or the usual exchange margins earned or paid thereon; 50

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- (c) any agreement entered into by the Minister of Economic Affairs and Technology under section 2 of the Export Credit and Foreign Investments Re-insurance Act, 1957 (Act No. 78 of 1957), with the Credit Guarantee Insurance Corporation of Africa Limited for the reinsurance of any contract, entered into by the said corporation with a person who exports capital goods or services from the Republic, for insuring against risks (not normally insurable) of monetary loss or monetary detriment attributable to any change in the value of the currency of the Republic in relation to the currency of the United States of America, shall accrue to the Government.
- (2) The Bank shall establish a Forward Exchange Contracts Adjustment Account in which it shall account for—
- (a) any loss suffered by the Bank on a forward exchange contract or loan referred to in subsection (1) (a) or (b);
- (b) any profit made by the Bank on a forward exchange contract or loan referred to in subsection (1) (a) or (b); and
- (c) any profit made and loss suffered on an agreement referred to in subsection (1) (c).

Gold and Foreign Exchange Contingency Reserve Account

28. (1) Any credit or debit balance on the Gold Price Adjustment Account, the Foreign Exchange Adjustment Account and the Forward Exchange Contracts Adjustment Account shall, at the close of each financial year of the Bank or at such other times as the Bank and the Treasury may determine, be transferred to a Gold and Foreign Exchange Contingency Reserve Account established and managed by the Bank on behalf of the Treasury.
- (2) (a) Any credit balance on the Gold and Foreign Exchange Contingency Reserve Account shall accrue to the Government as a profit and shall be for the benefit of the State Revenue Fund.
- (b) Any profit referred to in paragraph (a) shall be carried forward in the Gold and Foreign Exchange Contingency Reserve Account, but any such profit, or any part thereof, may, at such times as the Treasury and the Bank may deem desirable, be credited to the State Revenue Fund.
- (c) The Bank may, at the request of or with the approval of the Treasury, advance any credit balance, or part thereof, on the Gold and Foreign Exchange Contingency Reserve Account to the National Supplies Procurement Fund established by section 12 of the National Supplies Procurement Act, 1970 (Act No. 89 of 1970), and the interest, if any, on any money so advanced, shall, at such times as the Treasury may determine, be paid into the State Revenue Fund.
- (3) (a) Any debit balance on the Gold and Foreign Exchange Contingency Reserve Account shall be a loss for the Government and shall be a charge against the State Revenue Fund.
- (b) Any loss referred to in paragraph (a) shall be carried forward in the Gold and Foreign Exchange Contingency Reserve Account until the Treasury and the Bank deem it desirable to settle the outstanding balance.
- (c) Any loss referred to in paragraph (a) shall be defrayed from money appropriated by Parliament for such purpose.

Returns in connection with and auditing of certain accounts

29. (1) The Bank shall, at such times as the Treasury may determine, furnish the Treasury with returns reflecting the operations on the Gold Price Adjustment Account, the Foreign Exchange Adjustment Account and the Forward Exchange Contracts Adjustment Account.
- (2) A report by the auditors of the Bank in which it is stated that any statement to which such report relates is a correct reflection of all transactions, receipts and payments by the Bank in terms of sections 25, 26, 27 and 28, may be accepted as correct by the Auditor-General.

Audit and inspection

30. (1) For every financial year of the Bank, the shareholders shall at a general meeting elect two firms of public accountants, to act during that year as auditors of the Bank.

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(2) The Minister may at any time cause an investigation to be made into the affairs of the Bank by one or more officers of the Department of Finance authorized thereto by him in writing.

Report by Governor

31. The Governor shall annually submit to the Minister a report relating to the implementation by the Bank of monetary policy. 5

Furnishing of information to Department of Finance and to Parliament

32. (1) The Bank shall—

- (a) from time to time make up a return in the form set out in Schedule 1, containing a statement of the liabilities and assets of the Bank as at the close of business on the last business day of every month, and shall forthwith transmit the return to the Department of Finance; 10
- (b) within three months after the close of its financial year, transmit to the Department of Finance two copies of its financial statements signed by the Governor or any Deputy Governor and the chief financial officer of the Bank, together with an audit report; 15
- (c) within sixty days after the close of its financial year, transmit to the Department of Finance two copies of a list giving the full names and addresses of shareholders and the number of shares held by each; and
- (d) when called upon to do so by the Department of Finance by notice in writing, furnish that Department, within the period specified in the notice, with such further returns as may be specified in the notice. 20

(2) The Department of Finance shall cause every return received in terms of paragraph (a) of subsection (1) to be published in the *Gazette* as soon as is practicable. 25

(3) The Minister shall within fourteen days after receipt thereof lay a copy of the report referred to in section 31 and of every financial statement or list received in terms of paragraph (b) or (c) of subsection (1) upon the Tables in Parliament, if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session. 30

Preservation of secrecy

33. (1) No director, officer or employee of the Bank, and no officer in the Department of Finance, shall disclose to any person, except to the Minister or the Director-General: Finance or for the purpose of the performance of his duties or the exercise of his functions or when required to do so before a court of law or under any law, any information relating to the affairs of the Bank or a shareholder or customer of the Bank acquired in the performance of his duties or the exercise of his functions, or any other information acquired by him in the course of his participation in the activities of the Bank. 40

(2) No person shall disclose to any other person any information contained in any written communication which is in any manner marked as confidential or secret and which has been addressed by the Bank to any person or which has been addressed by any person to the Bank, except—

- (a) for the purposes of the performance of his duties or the exercise of his powers in terms of any law or when required to do so before a court of law; 45
- or
- (b) with the written consent of both the sender and the recipient of that communication.

Offences and penalties

50

34. (1) Subject to the provisions of section 2 of the Prevention of Counterfeiting of Currency Act, 1965 (Act No. 16 of 1965), any person who—

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- (a) forges, alters or unlawfully issues a note of the Bank or something purporting to be a note of the Bank, or any coin;
- (b) utters, tenders or accepts any such note or a coin which has been forged, altered or unlawfully issued, knowing it to be forged, altered or unlawfully issued; 5
- (c) without the authority of the Bank, engraves or makes upon any material whatsoever any words, figures, letters, marks, lines or devices the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or upon any note of the Bank or any coin which is legal tender; 10
- (d) without the authority of the Bank, uses or knowingly has in his possession any material whatsoever upon which has been engraved or made any such words, figures, letters, marks, lines or devices;
- (e) contravenes the provisions of section 33;
- (f) wilfully defaces, soils or damages any note of the Bank, or writes or places any drawing thereon or attaches thereto anything in the nature of an advertisement, or wilfully defaces or damages any coin which is legal tender; 15
- (g) removes from the premises where coins are manufactured under this Act, without lawful authority or excuse, any matrix, master punch, die, collar, piercing and cutting tool, pattern or mould, or any other tool, machine, engine, instrument or thing used or employed in or in connection with the coining of coins, or any useful part of the several objects aforesaid, or any coin or bullion; 20
- (h) is found in possession of any blank or defective coin of the size, shape and metal composition of any coin of which the coining is authorized by this Act, and is unable to account satisfactorily for such possession; 25
- (i) fraudulently inserts or uses in a machine that vends merchandise or services or collects fares or tolls, anything that is intended to pass for the coin or the token of value that the machine is designed to receive in exchange for the merchandise, service, fare or toll, as the case may be; 30
- (j) sells, exchanges or otherwise disposes of any metal reproduction of the Krugerrand, $\frac{1}{2}$ -Krugerrand, $\frac{1}{4}$ -Krugerrand or $\frac{1}{10}$ -Krugerrand contemplated in Schedule 2, or uses the word "Krugerrand" or any derivative thereof or any combination thereof with any other word in the furtherance of the sale, exchange or disposal in any other manner of such a reproduction or of any metal article of commerce; 35
- (k) without the written approval of the Department of Finance, intentionally destroys, melts down, dissolves in any dissolvent, breaks up or damages a coin that has been issued under section 11 of the South African Mint and Coinage Act, 1964 (Act No. 78 of 1964), or under section 14 of this Act, or removes any such coin out of the Republic, or causes or permits it to be so removed, with the purpose of so dealing with it or causing it to be so dealt with outside the Republic; or 40
- (l) sells or disposes of any coin issued as contemplated in paragraph (k), knowing or suspecting that such coin is to be dealt with in a manner constituting an offence under paragraph (k), 45
- shall be guilty of an offence and liable on conviction—
- (i) in the case of an offence referred to in paragraph (a) or (b), to imprisonment for a period not exceeding fifteen years; 50
- (ii) in the case of an offence referred to in paragraph (c) or (d), to imprisonment for a period not exceeding five years;
- (iii) in the case of an offence referred to in paragraph (e), to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment; 55
- (iv) in the case of an offence referred to in paragraph (f), to a fine not exceeding R250;

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- (v) in the case of an offence referred to in paragraph (g), (h) or (j), to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment;
- (vi) in the case of an offence referred to in paragraph (i), to a penalty which may in law be imposed for the crime of fraud; 5
- (vii) in the case of an offence referred to in paragraph (k), to a fine not exceeding R50 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment; and
- (viii) in the case of an offence referred to in paragraph (l), to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment. 10
- (2) For the purposes of subsection (1)—
- (a) "bullion" means any gold, platinum, silver, nickel, gold alloys, platinum alloys, silver alloys, nickel alloys or bronze or other minting alloys in the form of ingots, bars, strips, sheets, scissel, cuttings, granules, rejected coins, blanks, filings, sweepings, dross, scrap or wire; and 15
- (b) a coin shall be regarded as defective if it has been wrongly manufactured, and would accordingly be unfit for issue as a proper coin in accordance with the standards of manufacture applied by the institution entrusted with the manufacture of coins for the purposes of this Act. . 20

Rules by Board

35. The Board may make rules, not inconsistent with the provisions of this Act or of the regulations made under section 36, for the good government of the Bank and the conduct of its business, and the appointment and conditions of service (including remuneration and gratuities or other pension benefits) of officers and employees. 25

Regulations

36. The Minister may make regulations relating to—
- (a) the election of directors by shareholders;
- (b) the conditions (other than those relating to remuneration) of appointment of directors, and the circumstances in which a director shall vacate his office; 30
- (c) meetings of the Board and the procedure thereat, including the minutes to be kept thereof;
- (d) meetings of shareholders, the matters to be dealt with thereat and the procedure thereat, including the quorum necessary therefor and the minutes to be kept thereof; and 35
- (e) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

Proceedings by Minister in case of non-compliance with Act or regulations by Bank

37. (1) If at any time the Minister is of the opinion that the Bank has failed to comply with any provision of this Act or of a regulation made thereunder, he may by notice in writing require the Board to make good or remedy the default within a specified time. 40

(2) If the Board fails to comply with a notice referred to in subsection (1), the Minister may apply to the division of the Supreme Court having jurisdiction for an order compelling the Board to make good or remedy the default, and the Court may make such order thereon as it thinks fit. 45

Liquidation

38. (1) The Bank shall not be placed in liquidation except by an Act of Parliament. 50

(2) In the event of liquidation, the reserve fund and surplus assets (if any) of the Bank shall, subject to the provisions of subsection (3), be divided between the

Government and shareholders in the proportion of sixty per cent and forty per cent, respectively.

(3) If the amount payable to a shareholder in terms of subsection (2) exceeds the average market price of his holdings of shares in the Bank over the period of twelve months preceding a day three months prior to the date upon which a Bill providing for such liquidation is introduced in Parliament, so much of that amount as exceeds the said average shall be paid to the Government. 5

(4) No writ of execution or attachment or process in the nature thereof shall be issued or proceeded with against the Bank if the Minister has certified that he has introduced or that it is his intention to introduce in Parliament a Bill placing the Bank in liquidation, and has not withdrawn the certificate. 10

Application of Act in South-West Africa

39. This Act and any amendment thereof shall apply also in the territory, including the Eastern Caprivi Zipfel referred to in section 1 (2) of the South-West Africa Constitution Act, 1968 (Act No. 39 of 1968). 15

Repeal of laws, and savings

40. (1) Subject to the provisions of subsection (2), the laws specified in Schedule 3, are hereby repealed to the extent set out in the third column of that Schedule.

(2) The Governor and each Deputy Governor and any director of the Bank holding office at the commencement of this Act, shall, for the unexpired portion of the period for which he has been appointed or elected under the South African Reserve Bank Act, 1944 (Act No. 29 of 1944), be deemed to hold office under the applicable provisions of this Act, and any rules and regulations made under sections 22 and 23, respectively, of the said Act, or which are deemed to have been made thereunder, shall be deemed to have been made under the corresponding provisions of this Act. 25

Short title and commencement

41. This Act shall be called the South African Reserve Bank Act, 1989, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Schedule 1

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Statement of assets and liabilities on theday of
of 19....

Liabilities	R	c	Assets	R	c
Share capital			Gold		
Reserve fund			Foreign assets		_____
Notes in circulation			Total gold and foreign assets		
Deposits:			Domestic assets:		
Government			Discounted bills		
Provincial administrations			Loans and advances:		
Banks and building societies			Government		
Other			Other		
Other liabilities			Securities:		
			Government		
			Other		
			Other assets		
			_____		_____
			***		***

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Schedule 2

(a) Standard mass and fineness of precious metal coins and commemorative coins

Denomination of coin	Standard mass (Gram)	Least current mass (Gram)	Standard fineness based on minimum mass	Remedy allowable		
				Mass per coin (Gram)	Precious metal fineness per thousand parts	
GOLD						
Krugerrand (1 oz fine gold)	33,930	33,930	916,7 parts elemental gold per thousand, balance copper including trace elements	+0,07	+0,4	
1/2-Krugerrand (1/2-oz fine gold)	16,965	16,965		+0,035	+0,4	
1/4-Krugerrand (1/4-oz fine gold)	8,482	8,482		+0,02	+0,4	
1/10-Krugerrand (1/10-oz fine gold)	3,393	3,393		+0,01	+0,4	
Two rand	7,988	7,988		+0,02	+0,4	
One rand	3,994	3,994		+0,01	+0,4	
COMMEMORATIVE						
Protea (1 oz fine gold)	33,930	33,930		+0,07	+0,4	
1/10-Protea (1/10-oz fine gold)	3,393	3,393		+0,01	+0,4	
SILVER						
Two rand (1 oz fine silver)	33,626	33,626	925,0 parts elemental silver per thousand, balance copper including trace elements	+0,2	+5	
One rand	15,000	15,000		+0,1	+5	

(b) Standard mass and least current mass of alloy coins

Denomination	Standard mass (Gram)	Remedy allowable	Least current mass (Gram)	Metal composition
		Mass per coin (Gram)		
Five rand	7,0	±0,21	6,65	Layered composition of nickel, copper, zinc and tin
Two rand	5,5	±0,165	5,225	
One rand	4,0	±0,12	3,80	
Fifty cents	5,0	±0,15	4,75	Layered composition of copper, tin and steel
Twenty cents	3,5	±0,105	3,325	
Ten cents	2,0	±0,06	1,9	
Five cents	4,5	±0,135	4,274	Layered composition of copper, tin and steel
Two cents	3,0	±0,09	2,85	
One cent	1,5	±0,045	1,425	

Schedule 3

LAWS REPEALED

No. and year of law	Short title	Extent of repeal
Act No. 29 of 1944	South African Reserve Bank Act, 1944	The whole
Act No. 45 of 1956	South African Reserve Bank Amendment Act, 1956	The whole
Act No. 24 of 1960	South African Reserve Bank Amendment Act, 1960	The whole
Act No. 5 of 1961	South African Reserve Bank Amendment Act, 1961	The whole
Act No. 16 of 1965	Prevention of Counterfeiting of Currency Act, 1965	Sections 8 and 9
Act No. 70 of 1968	General Law Amendment Act, 1968	Section 25
Act No. 87 of 1969	South African Reserve Bank Amendment Act, 1969	The whole
Act No. 92 of 1970	General Law Further Amendment Act, 1970	Section 3
Act No. 49 of 1973	South African Reserve Bank Amendment Act, 1973	The whole
Act No. 92 of 1977	South African Reserve Bank Amendment Act, 1977	The whole

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No. and year of law	Short title	Extent of repeal
Act No. 98 of 1981	South African Reserve Bank Amendment Act, 1981	The whole
Act No. 47 of 1984	South African Reserve Bank Amendment Act, 1984	The whole
Act No. 6 of 1987	Financial Institutions Amendment Act, 1987	Sections 1 and 2
Act No. 88 of 1988	Finance Act, 1988	Section 7
Act No. 96 of 1988	South African Reserve Bank, Banking Institutions, Mutual Building Societies and Building Societies Amendment Act, 1988	Section 1
Act No. 49 of 1989	South African Reserve Bank Amendment Act, 1989	The whole