

NO. 54 OF 1996: INSURANCE AMENDMENT ACT, 1996.

PRESIDENT'S OFFICE

No. 1754.  
1 November 1996

NO. 54 OF 1996: INSURANCE AMENDMENT ACT, 1996.

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

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Insurance Act, 1943, so as to allow long-term insurers to underwrite registered medical scheme business; to prescribe a basis on which certain assets should be valued; to provide for more flexibility as regards foreign investments by insurers, the basis on which it is to be allowed and the manner in which it should be held; to empower the registrar to prohibit the publication of misleading or undesirable advertising material; and to further regulate the ban on the use of certain business names by unregistered persons; and to provide for matters connected therewith.

(English text signed by the President.)

(Assented to 24 October 1996.)

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

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, section 1 of Act 91 of 1972, section 1 of Act 101 of 1976, section 1 of Act 94 of 1977, section 1 of Act 80 of 1978, section 1 of Act 103 of 1979, section 1 of Act 99 of 1980, section 1 of Act 36 of 1981, section 1 of Act 86 of 1984, section 1 of Act 106 of 1985, section 1 of Act 54 of 1989, section 1 of Act 83 of 1992, section 1 of Act 104 of 1993, section 63 of Act 113 of 1993 and section 1 of Act 140 of 1993

1. Section 1 of the Insurance Act, 1943, is hereby amended by the substitution in subsection (1) for item (cc) of the definition of "life policy" of the following item:

"(cc) any contract in terms of which a registered insurer who is authorized to carry on life business, underwrites an obligation which a pension fund, a retirement annuity fund, a provident fund or a benefit fund (but not a medical aid scheme registered under the provisions of the Medical Schemes Act, 1967 (Act No. 72 of 1967),) as defined in the Income Tax Act, 1962 (Act No. 58 of 1962), or a Friendly Society as defined in the Friendly Societies Act, 1956 (Act No. 25 of 1956), owes to its members;"

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, section 3 of Act 41 of 1966, section 5 of Act 101 of 1976, section 2 of Act 50 of 1986, section 9 of Act 54 of 1989, section 3 of Act 64 of 1990 and section 2 of Act 104 of 1993

2. Section 15 of the Insurance Act, 1943, is hereby amended-

(a) by the substitution in paragraph (f) for the words preceding subparagraph (i) of the following words:

"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, 5A, 6, or 6A or subparagraph 5(a)(i) of paragraph 11 of the Third Schedule to this Act shall be shown at an amount which

does

not exceed the lesser of the two amounts stated below, namely-...";

(b) by the substitution for subparagraph (ii) of paragraph (fA) of the following subparagraph:

"(ii) is not of a kind specified in paragraph (b) or in paragraph 3, 4, 4A, 5, 5A, 6, or 6A or subparagraph 5(a)(i) of paragraph 11 of the Third Schedule to this Act; and";

(c) by the deletion in paragraph (g) of the words "in the Republic"; and

(d) by the deletion in paragraph (h) of the words "in the Republic".

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, section 1 of Act 75 of 1970, section 9 of Act 101 of 1976, section 8 of Act 103 of 1979 and section 20 of Act 46 of 1984

3. Section 21 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

"(a) unless every document which is the property of the insurer concerned and which essentially evidences the title of the insurer to such asset is in the Republic or in the case of an asset of a kind specified in subparagraph (5) of paragraph 11 of the Third Schedule to this Act, it is held outside the Republic in such a manner and subject to such conditions as the registrar may determine; and".

Insertion of section 23E in Act 27 of 1943

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

"Restrictions on advertising materials

23E. (1) If the registrar is satisfied that an advertisement, brochure or similar document which relates to the business of an insurer, or to an insurance policy, which is being, or is to be, published or broadcasted by

a

person, is misleading or contrary to the public interest or contains an incorrect statement of fact he or she may direct that person not to publish or broadcast it or to cease publishing or broadcasting it or to effect the changes to it which he or she deems fit.

(2) An advertisement, brochure or similar document which relates to an insurance policy must contain the name of the registered insurer who underwrites the policy."

Amendment of section 59D of Act 27 of 1943, as inserted by section 65 of

Act 113 of 1993

5. Section 59D of the Insurance Act, 1943, is hereby amended-

(a) by the addition at the end of subsection (1) (e) (i) (cc) of the word "or" and the addition of the following item:

"(dd) a medical scheme as defined in section I of the Medical Schemes Act, 1967 (Act No. 72 of 1967),"; and

(b) by the substitution for the words following subsection (1) (e) (i) (dd) of the following words:

"owes to its members, for as long as no right under such a contract is in any manner ceded to a member or another person (other than a person referred to in items (aa), (bb), and (cc) and (dd) for the direct or indirect benefit of a member; and".

Amendment of section 75bis of Act 27 of 1943, as inserted by section 22 of Act 79 of 1959

6. Section 75bis of the Insurance Act, 1943, is hereby amended by the substitution in subsection (1) for the words following paragraph (b) of the following words:

"shall without the approval in writing of the registrar use in respect of or apply to any business or undertaking carried on by him or her, or permit to be so used or applied, any name, style or description in which the word 'insure', or the word 'assure', 'underwrite' or any derivative of either word occurs these words occur."

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, section I of Act 23 of 1970, section 15 of Act 101 of 1976, section 36 of Act 9 of 1989, section 13 of Act 83 of 1992 and section 20 of Act 104 of 1993

7. The Third Schedule to the Insurance Act, 1943, is hereby amended-

(a) by the substitution for paragraph 6A of the following paragraph:

"6A Bills, bonds or securities issued by-

(a) the Government of; or,

(b) a local authority in; or

(c) a body corporate established by law of, a territory forming part of the Republic but which at any time before 27 April 1994 did not

form

part of the Republic, and which territory has been approved by the registrar subject to the conditions imposed by him or her.";

(b) by the addition at the end of subparagraph (4) of paragraph 11 of the word and" and by the addition of the following subparagraphs:

"(5) (a) listed securities, excluding any derivative instrument, issued by-

(i) a Government of a country other than the Republic; or

(ii) an institution incorporated outside the Republic, in respect of

which the registrar has approved the-

(aa) stock exchange outside the Republic; or

market (bb) country, other than the Republic, in which the regulated concerned is situated, subject to the conditions he or she determines; and

the (b) a credit balance in an account with, or a deposit (including a negotiable deposit) accepted by, an institution incorporated outside a Republic, in a country approved by the registrar which would have been a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), or a mutual bank in terms of the Mutual Banks Act, 1993 (Act No. 124 of 1993), if it were incorporated in the Republic; and

(c) units which are in whole derived from or linked to one or more assets referred to in subparagraphs (a) and (b).

(6) For the purposes of subparagraph (5)-

(a) 'listed' means-

(i) that there has been granted and not withdrawn, a listing in respect of the securities on a stock exchange outside the Republic, and that dealings in the securities are effected regularly on that stock exchange; or

(ii) that dealings in the securities are effected regularly on a regulated market; and

(b) 'regulated market' means a market situated outside the Republic and which-

(i) is operated regularly; and

(ii) is subject to regulations issued or approved by the state concerned and in terms of which requirements are prescribed-

market; (aa) in relation to the operation of and access to the and

(bb) in respect of financial instruments for purposes of the effective trading thereof in the market.".\$

Short title and commencement

8. This Act shall be called the Insurance Amendment Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the Gazette.