

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain odd numbered pages as the other language is printed on even numbered pages.



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THE PRESIDENCY

No. 1759

24 June 1992

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

No. 84 of 1992: Financial Services Board Second Amendment Act, 1992.



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GENERAL EXPLANATORY NOTE:

[**]** Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Financial Services Board Act, 1990, so as to promote the managerial independence of the Financial Services Board; to regulate anew the power of the Board to impose levies on financial institutions; and to provide that interest raised in respect of overdue fees and levies be part of the funds of the Board; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 18 June 1992.)

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

Amendment of section 14 of Act 97 of 1990

1. Section 14 of the Financial Services Board Act, 1990 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The board may pay to the persons in its employ, or provide them with, such remuneration, allowances, bonuses, subsidies, pension and other employment benefits as the board may, after having obtained such professional advice as it may deem fit, consider as being competitive in the open market for the manpower concerned and may **[with the concurrence of the Minister]** determine without being subject to any provisions of the Public Service Act, 1984 (Act No. 111 of 1984).”.

Insertion of section 15A in Act 97 of 1990

2. The following section is hereby inserted in the principal Act after section 15:

“**Levies**

15A. (1) The board may impose by notice in the *Gazette* levies on financial institutions and may, subject to the provisions of this section, at any time in similar manner amend, substitute or withdraw any such notice.

(2) (a) The board shall in any such notice determine—

- (i) the amounts of the levies or the bases or manners of calculation or determination of the amounts;
- (ii) the periods in respect of which levies are imposed, the dates on which levies or the periods within which they are payable, and the manners of payment;

- (iii) the rates of interest and manner of calculation of interest contemplated in subsection (3);
- (iv) the manner in which applications for exemptions contemplated in subsection (4) shall be made; and
- 5 (v) the manner in which a notice contemplated in subsection (4)(b)(ii) shall be served.
- (b) The board may in any such notice—
- (i) impose different levies referred to in subsection (1); and
- 10 (ii) determine different amounts, bases or manners of calculation or determination, periods, dates, manners of payment, rates of interest and manners of calculation of interest, manners of making application or of service referred to in paragraph (a), in respect of different financial institutions, different categories of financial institutions and different subcategories of a specific type of financial institution.
- 15 (3) (a) A financial institution which is under such notice liable for payment of a levy, and which fails to pay the levy in full within the period for payment as determined in the notice or on the date so determined, shall, at the rate and calculated in the manner determined in the notice, pay interest on the balance of the levy outstanding and on the interest so payable but unpaid.
- 20 (b) A levy imposed by any such notice, and interest owed in respect thereof, shall be deemed to be a debt due to the board and may be recovered by the board by way of judicial process in a competent court.
- 25 (4) (a) The board may upon the application of a financial institution, and if the board is of the opinion that there are sound reasons therefor, grant exemption to the financial institution from a provision of the notice to the extent and subject to the conditions determined by the board.
- 30 (b) An exemption contemplated in paragraph (a) shall lapse when—
- (i) the board on the ground of facts and information at its disposal finds that the financial institution concerned has contravened a provision of a condition imposed as contemplated in paragraph (a), or has failed to comply therewith, or has otherwise acted contrary to the exemption; and
- 35 (ii) the board has served a written notice to that effect in accordance with the provisions of a notice referred to in subsection (1) on the institution.
- 40 (c) The board may, before taking a decision contemplated in paragraph (b)(i), grant the financial institution concerned the opportunity deemed fit by the board to be heard.”.

45 **Amendment of section 16 of Act 97 of 1990, as amended by section 4 of Act 41 of 1992**

3. Section 16 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

- 50 “(b) money raised as fees, and interest in respect of overdue fees, in respect of services rendered by the board in the performance of its functions under this or any other Act or levies imposed by the board under section 15A on financial institutions and **[approved by the Minister and made known by him by notice in the Gazette]** interest in respect of overdue levies;”.

Transitional provision

- 55 4. Any notice published before the commencement of this Act under section 16(1)(b) of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and which is in force immediately prior to the date of the said commencement, shall be deemed to have been published under section 15A of the said Act, as inserted by section 2 of this Act.

Short title and commencement

5. (1) This Act shall be called the Financial Services Board Second Amendment Act, 1992, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.
- 5 (2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.