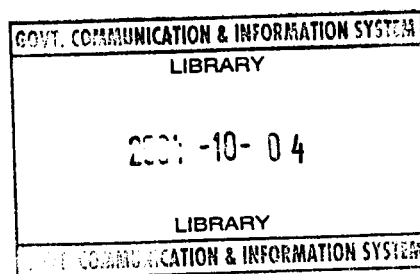


REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
NATIONAL PAYMENT SYSTEM
AMENDMENT BILL**

[B 14—2004]

*(As agreed to by the Portfolio Committee on Finance
(National Assembly))*



[B 14A—2004]

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AMENDMENTS AGREED TO

NATIONAL PAYMENT SYSTEM AMENDMENT BILL
[B 14—2004]

CLAUSE 1

1. On page 2, in line 29, after “**house**” to insert “**(PCH)**”.
2. On page 3, after line 23, to insert:
 - (h) by the substitution for the definition of “person” of the following definition:

“ ‘person’ includes a trust;

CLAUSE 3

1. On page 4, after line 46, to insert:
 - (c) by the substitution for subsection (3) of the following subsection:

“(3) Besides the Reserve Bank, the following may also be members of a payment system management body:

 - (a) A bank, mutual bank or branch of a foreign institution; and
 - (b) an institution or body referred to in section 2 of the Banks Act, 1990, and in paragraph (dd)(i) of the definition of ‘the business of a bank’ in section 1 of that Act,

that complies with the entrance and other applicable requirements laid down in the rules of the payment system management body.”;
2. On page 4, from line 48, to omit subsection (3A) and to substitute:

“(3A) The institutions or bodies referred to in subsection (3)(b) that comply with the entrance criteria for limited membership as recommended by the payment system management body and approved by the Reserve Bank in terms of section 4(2)(c)(i), may be granted limited membership by such a payment system management body.”;
3. On page 5, after line 7, to add:
 - (f) by the addition of the following subsection:

“(5) No person may be allowed to clear as contemplated in section 4(2)(d)(i) unless, in the case where a payment system management body has been recognised by the Reserve Bank as contemplated in subsection (1), such person is a member of the payment system management body so recognised.”.

CLAUSE 4

1. On page 5, from line 26, to omit subparagraph (i) and to substitute:
 - (i) **[determine the]** recommend for approval by the Reserve Bank, criteria subject to which any person is granted limited membership of the payment system management body or is to be authorised to act as a system operator or a PCH system operator within [the] a payment system [in order to provide specific services to one or more members of the payment system management body or to act on behalf of those members]; and

CLAUSE 5

1. On page 5, from line 51, to omit "it considers that".

CLAUSE 6

1. On page 6, in line 52, to omit the second "the" and to substitute "a".
2. On page 6, in line 56, to omit the second "the" and to substitute "a".

CLAUSE 9

1. On page 8, after line 34, to add:

(8) Notwithstanding any written law or rule of law, a court shall not recognise or give effect to—

 - (a) an order of a court exercising jurisdiction under the law of insolvency in a place outside the Republic of South Africa; or
 - (b) an act of a person appointed in a place outside the Republic of South Africa to perform a function under the law of insolvency there,

in so far as the making of the order or doing of the act would be prohibited under this Act for a court in the Republic of South Africa or a curator or similar official or liquidator or similar official.

CLAUSE 10

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Substitution of section 9 of Act 78 of 1998

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

"Utilisation of assets provided as security

9. Despite anything to the contrary in any law relating to insolvency, any asset of a settlement system participant which was provided, prior to the issue of any order for that settlement system participant's winding-up, by that participant to the Reserve Bank or the designated settlement system operator as

security for a loan in respect of its settlement obligations may be utilised by the Reserve Bank or the designated settlement system operator, as the case may be, to the extent required for the discharge of those settlement obligations of the settlement system participant.”.

CLAUSE 13

1. On page 10, in line 22, after “writing” to insert:
 , over and above any directive contemplated in subsection (1).
2. On page 10, from line 41, to omit subsection (9) and to substitute:

(9) (a) A directive issued in terms of subsection (1) takes effect three months after it has been issued or on such earlier date as may be determined by the Reserve Bank.
(b) A directive issued in terms of subsection (3) takes effect immediately.

CLAUSE 16

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Substitution of section 14 of Act 78 of 1998

16. The following section is hereby substituted for section 14 of the principal Act:

“Penalties

14. Any person convicted of an offence referred to in—

- (a) section 6(2)[, 7(5)] or [12(3)] 12(8), is liable to a fine not exceeding R1 million or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment; [or]
- (b) section 10(4), is liable to a fine [not exceeding R1 000] or to imprisonment for a period not exceeding [six months] two years, or to both [such] a fine and such imprisonment.”.