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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 644.

30 Maart 1984

No. 644.

30 March 1984

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. 46 van 1984: Wet op die Korporasie vir Openbare Deposito's, 1984.

No. 46 of 1984: Corporation for Public Deposits Act, 1984.

ACT

To provide for the establishment of the Corporation for Public Deposits; for the investment of certain moneys received or held by, for or on behalf of the Government of the Republic and certain bodies, councils, funds and accounts; for the dissolution of the National Finance Corporation of South Africa; and for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 26 March 1984.)*

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

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

Definitions.

- 5 (i) "bank" means the South African Reserve Bank mentioned in section 2 of the South African Reserve Bank Act, 1944 (Act No. 29 of 1944); (i)
- (ii) "board" means the board of directors referred to in section 5; (vii)
- 10 (iii) "commissioners" means the Public Investment Commissioners referred to in section 2 of the Public Investment Commissioners Act, 1984; (iii)
- (iv) "corporation" means the Corporation for Public Deposits established by section 2; (iv)
- 15 (v) "department" means the Department of Finance; (ii)
- (vi) "Minister" means the Minister of Finance; (v)
- (vii) "public deposit" means an amount of money other than revenue as defined in section 1 of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975)—
- 20 (a) which is received or held by, for or on behalf of—
- (i) the Government of the Republic, including the South African Transport Services, the Department of Posts, and Telecommunications and the provincial administrations; or
- 25 (ii) any body, council, fund or account established by or under any law which may, or is required to, invest, in terms of that law, or that law as construed in terms of section 14 (2) (b) of the Public Investment Commissioners Act, 1984, such amount of money with the corporation; and
- 30 (b) which is not required for immediate use or as a reasonable working balance; and
- (c) which is not invested or otherwise utilized, in terms of a provision of any law, otherwise than in
- 35 terms of this Act,
- and, except for the purposes of section 4, includes an amount of money received or held by, for or on behalf of a person or body referred to in that section. (vi)

CORPORATION FOR PUBLIC DEPOSITS ACT, 1984

Act No. 46, 1984

2. There is hereby established a juristic person to be known as the Corporation for Public Deposits.

Establishment of Corporation for Public Deposits.

3. (1) The corporation shall accept all public deposits, repay those deposits on demand and pay interest thereon, and shall have power—

Duties and powers of corporation.

- (a) to invest public deposits so accepted and other moneys at its disposal in—
- (i) stock, bonds or treasury bills issued in terms of section 19 of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975);
 - (ii) bills or promissory notes issued by—
 - (aa) the Industrial Development Corporation of South Africa, Limited, in terms of section 4 of the Industrial Development Act, 1940 (Act No. 22 of 1940);
 - (bb) the Land and Agricultural Bank of South Africa in terms of section 20 of the Land Bank Act, 1944 (Act No. 13 of 1944);
 - (iii) stock or bonds issued by the Department of Posts and Telecommunications in terms of section 12I of the Post Office Act, 1958 (Act No. 44 of 1958);
 - (iv) stock or bills issued by the Rand Water Board in terms of the Rand Water Board Statutes (Private) Act, 1950 (Act No. 17 of 1950);
 - (v) debentures, bills or stock issued by the National Housing Commission in terms of section 3A of the Housing Act, 1966 (Act No. 4 of 1966);
 - (vi) securities issued by—
 - (aa) the South African Transport Services;
 - (bb) a body, council or institution contemplated in section 84(1)(f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961);
 - (cc) the Electricity Supply Commission in terms of the Electricity Act, 1958 (Act No. 40 of 1958);
 - (vii) any other debentures, bills, promissory notes or securities or bankers' acceptances issued within or outside the Republic;
 - (viii) deposits with any financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984;

(b) to hold, buy, subscribe for or otherwise acquire or sell or otherwise deal in or underwrite stock, bonds, bills, promissory notes, debentures, securities or bankers' acceptances in which it may, under paragraph (a), invest public deposits and other money;

(c) to pay to the shareholder, from its net profits, annually a dividend on the paid-up capital of the corporation;

(d) to open accounts at the bank or at any banking institution outside the Republic;

(e) to employ officers and employees and to remunerate, house, discharge or train them or cause them to be trained, and to indemnify them in respect of any harm, damage or loss suffered by them in the course of the performance of their duties, and to provide or give pension and sick benefits and housing facilities or benefits for or to such officers and employees;

(f) to acquire, sell, encumber or otherwise alienate such movable or immovable property, including rights in or over it, as it may require for the performance of its functions;

CORPORATION FOR PUBLIC DEPOSITS ACT, 1984

Act No. 46, 1984

- (g) in order to repay public deposits which it accepted under this subsection or to pay its other liabilities—
- (i) to discount with the bank treasury bills referred to in paragraph (a) (i);
 - (ii) to sell to the bank at market value or such value as the corporation and the bank may determine by mutual agreement stock, bonds, bills, promissory notes, debentures, securities or bankers' acceptances in which it has, under paragraph (a), invested public deposits and other money, or to borrow money from the bank against security thereof;
- (h) to pay all the expenses in connection with its establishment and administration;
- (i) to enter into any contract and perform any act that it may deem necessary or expedient in connection with the achievement of the objects of this Act.
- (2) The bank shall—
- (a) in order to enable the corporation to repay public deposits accepted by it under subsection (1) or to pay its other liabilities, make available to the corporation such moneys as the corporation may deem necessary for such purpose, by—
 - (i) discounting treasury bills in which the corporation has, under subsection (1) (a) (i), invested public deposits;
 - (ii) buying from the corporation at market value or such value as the corporation and the bank may determine by mutual agreement stock, bonds, bills, promissory notes, debentures, securities or bankers' acceptances in which the corporation has, under subsection (1) (a), invested public deposits and other money, or lending money to the corporation against security thereof;
 - (b) at the request of the corporation resell, on such terms and conditions as the corporation and the bank may determine by mutual agreement, to the corporation stock or bonds sold to the bank under paragraph (a) (ii).

4. (1) The Minister may, with the concurrence of the corporation, authorize generally or in relation to a particular case any person or body receiving or holding within or outside the Republic amounts of money other than public deposits, to invest with the corporation in accordance with the provisions of this Act those amounts of money or portions thereof as if those amounts of money were public deposits.

Authorization by Minister that amounts of money other than public deposits be accepted by corporation.

(2) A person in respect of whom the Minister has required, in terms of section 10 of the Public Debt Commissioners Act, 1969 (Act No. 2 of 1969), the Public Debt Commissioners, as referred to in that Act, to undertake the collection, administration and investment of moneys controlled or disposed of by that person, shall, unless that person requests otherwise, be deemed to be authorized in terms of subsection (1) of this section to invest those moneys with the corporation.

5. (1) The affairs of the corporation shall be managed and controlled by a board of directors, which shall, subject to the provisions of this Act, exercise the powers and perform the duties conferred or imposed upon the corporation by this Act or any other law.

Board of directors.

(2) The board shall consist of four persons appointed by the Minister, of whom—

(a) two shall be persons holding the office of Governor or Deputy-Governor at the bank, or who are officers of the bank; and

(b) the other two shall be officers in the department.

(3) The Minister shall designate one of the persons referred to in subsection (2) (a) as chairman of the board, and the board may elect from among its number another director as vice-chairman.

CORPORATION FOR PUBLIC DEPOSITS ACT, 1984

Act No. 46, 1984

6. Each director of the corporation may, with the concurrence of the board, nominate as alternate director a person who may be appointed in his place as a director, and any alternate director so nominated shall act, during the absence of that director or his inability to act as director, as director in the place of the director by whom he has been nominated.
7. (1) A director of the corporation (except a director referred to in section 5 (2) (b), who shall hold office at the Minister's pleasure) shall hold office for a period of three years, and shall be eligible for reappointment.
- (2) A director or alternate director of the corporation shall receive no remuneration or allowances in respect of his services as a director: Provided that the board may in its discretion compensate a director for actual expenses incurred by him in connection with his functions as a director.
- (3) If a director or alternate director performs any work on behalf of the corporation otherwise than in his capacity as director of the corporation, he may be paid such remuneration as the board may determine.
8. A director of the corporation shall vacate his office if—
- his estate is sequestrated or he enters into a compromise with his creditors;
 - he is according to the law detained as a mentally ill person;
 - he has absented himself from three consecutive meetings of the board without the leave of the board; or
 - he resigns by notice in writing addressed to the Minister.
9. (1) A meeting of the board shall be held at such time and place as the board or the chairman of the board may determine.
- (2) The chairman shall preside at all meetings of the board at which he is present.
- (3) If the chairman of the board is absent or is unable to perform his functions as chairman, the vice-chairman shall act as chairman, and while he so acts he shall have all the powers and shall perform all the duties of the chairman.
- (4) If both the chairman of the board and the vice-chairman are absent from a meeting of the board the directors present shall elect one from among their number to act as chairman at that meeting, and while he so acts he shall have all the powers and shall perform all the duties of the chairman.
- (5) One director appointed under subsection (2) (a) of section 5 and one director appointed under subsection (2) (b) of that section shall form a quorum for a meeting of the board.
- (6) The decision of a majority of the directors present at a meeting shall be a decision of the board: Provided that in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.
- (7) No decision of the board or act performed under the authority of the board shall be invalid by reason only of any vacancy on the board, or by reason only of the fact that any person who is not entitled to sit as a director, sat as a director when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the directors who were present at the time and entitled to sit as directors.
- (8) The board shall cause a record to be kept of the proceedings at the meetings of the board.
- (9) The board may make rules in relation to the holding of, and procedure at, meetings of the board.
- (10) Notwithstanding the provisions of subsections (1), (2), (5) and (6), the board may take a decision by means of the signing

Alternate directors.

Tenure of office and conditions of service of directors and alternate directors.

Vacation of office by directors.

Meetings of board and decisions.

CORPORATION FOR PUBLIC DEPOSITS ACT, 1984

Act No. 46, 1984

- by a majority of the directors, without their being present at any meeting of the board, of a document in writing containing such a decision, and that decision shall be noted in the records of the next ensuing meeting of the board.
- 5 10. (1) Subject to the provisions of subsection (2), the share capital of the corporation shall consist of R2 000 000. Share capital.
 (2) The board may, with the concurrence of the Minister, increase the share capital of the corporation to such extent as the board may determine, and such share capital and any increase
 10 thereof shall be divided into ordinary shares of one rand each.
 (3) Only the bank may become a shareholder of the corporation.
11. The liability of the bank as holder of shares in the corporation shall be limited to the amount unpaid in respect of the
 15 shares held by it. Liability of shareholder.
12. The expenditure incurred by or on behalf of the corporation, including the remuneration of its auditor and the compensation for actual expenses of its directors, shall be defrayed from the funds of the corporation. Expenditure.
- 20 13. No tax on income imposed by or under any law, or stamp duties payable under any law in consequence of the exercise of a power contemplated in section 3 (1) (b), shall be payable by the corporation. Exemptions from certain taxes and duties.
14. The financial year of the corporation shall end on 31
 25 March in every year. Financial year of corporation.
15. (1) The corporation shall establish a reserve fund into which shall be deposited from its annual net profits, after payment of a dividend contemplated in section 3 (1) (c), an amount of money determined from time to time by the board. Utilization of profits.
 30 (2) The balance of such net profits shall, after provision has been made for any accumulated losses suffered by the corporation in the performance of its functions, be paid annually into the State Revenue Fund.
16. (1) The corporation shall— Bookkeeping and auditing.
 35 (a) cause proper account to be kept of all financial transactions, assets and liabilities of the corporation;
 (b) cause financial statements to be compiled in respect of the financial year ending on 31 March 1985 and every succeeding financial year, and submit copies of those
 40 statements, after the auditing contemplated in subsection (2), to the Minister and the bank.
 (2) The accounts of the corporation shall be audited annually by a person registered as an accountant and auditor in terms of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of
 45 1951), and appointed by the board on such conditions as the board and the person concerned may determine by mutual agreement.
17. (1) The corporation shall submit, within six months after the end of any financial year, to the Minister and the bank a report regarding its functions during that financial year. Annual report.
 50 (2) The financial statements referred to in section 16 (1) (b) and the report referred to in subsection (1) of this section, shall be laid upon the Table of Parliament by the Minister within 14 days after receipt thereof, if Parliament is then in session or, if
 55 Parliament is not then in session, within 14 days after the commencement of its next ensuing session.
18. The corporation shall not be liquidated except by or on authority of an Act of Parliament. Liquidation of corporation.
19. No provision of the Banks Act, 1965 (Act No. 23 of 1965),
 60 shall apply in relation to the corporation. Application of Act 23 of 1965.

CORPORATION FOR PUBLIC DEPOSITS ACT, 1984

Act No. 46, 1984

20. The laws mentioned in the Schedule are hereby repealed or amended to the extent set out in the third column of that Schedule.

Repeal and amendment of laws.

21. (1) The firm of accountants charged, in terms of section 16 (2) of the National Finance Corporation Act, 1949 (Act No. 33 of 1949) (hereinafter referred to as the repealed Act), with the auditing of the accounts of the National Finance Corporation of South Africa (hereinafter referred to as the dissolved corporation) at the commencement of this subsection, shall designate as soon as possible but not later than the date immediately before the commencement of the other provisions of this Act, a person as liquidator, who shall, on such conditions as the Minister may determine, exercise the powers and perform the duties conferred or imposed in relation to the dissolved corporation upon the liquidator by this section.

Disposal of assets, liabilities, rights and obligations of National Finance Corporation of South Africa.

(2) At the commencement of this Act—

- (a) all assets, liabilities, rights and obligations, except the securities, other assets, rights and obligations referred to in paragraph (c), which vested in the dissolved corporation immediately before that commencement, shall vest in the liquidator;
- (b) the liquidator shall in so far as it is practicable sell—
- (i) all securities in which the dissolved corporation has, in terms of section 3 (c) of the repealed Act, invested money immediately before that commencement; and
- (ii) all other assets of the dissolved corporation, which are negotiable, at an amount of money which in his opinion is the market value of those securities and other assets;
- (c) all other securities and assets (including all rights and obligations connected therewith) which are not negotiable and which vested in the dissolved corporation immediately before that commencement and the obligation in relation to the amount of money, if any, advanced under paragraph (e) (ii), shall vest in the corporation as if those securities and assets were acquired by the corporation in terms of section 3 at such commencement and that amount of money were so advanced to the corporation;
- (d) the corporation shall, notwithstanding anything to the contrary contained in this Act, pay to the liquidator, in so far as it has the funds at its disposal, an amount of money equal to the value (which the corporation and the liquidator may determine by mutual agreement) of the securities and assets referred to in paragraph (c);
- (e) the bank shall—
- (i) buy from the liquidator all securities and assets referred to in paragraph (b) which at 10h00 are not sold under the said paragraph (b) at such amount of money as the liquidator and the bank may determine by mutual agreement as the market value thereof;
- (ii) notwithstanding anything to the contrary contained in any law, advance to the liquidator an amount of money equal to the difference between the value of the securities and assets referred to in paragraph (c), as determined thereunder, and the amount of money paid to the liquidator under paragraph (d);
- (f) the liquidator shall, from the amounts of money referred to in paragraphs (b), (d) and (e) and such other money as may be in possession of the dissolved corporation on the date immediately before that commencement, repay all deposits (and, in so far as it is practicable, interest payable thereon) accepted on the last-mentioned date by the corporation in terms of section 3 (a) of the repealed Act.

(3) As soon as possible after the commencement of this Act—

CORPORATION FOR PUBLIC DEPOSITS ACT, 1984

Act No. 46, 1984

- (a) but not later than seven days after that commencement, the corporation shall pay to the bank the amount of money referred to in subsection (2) (e) (ii), together with any interest thereon;
- 5 (b) the liquidator shall, after payment of—
- (i) all liabilities of the dissolved corporation, including interest still due on all deposits mentioned in subsection (2) (f); and
- 10 (ii) such expenditure, including any remuneration of the liquidator, incurred by or on behalf of the liquidator in connection with the exercise of his powers and the performance of his duties in terms of this section,
- 15 divide the balance of the money referred to in subsection 2 (f) between the shareholders of the dissolved corporation in proportion to the number of shares held by each one.
- (4) If the firm of accountants referred to in subsection (1) or the liquidator for any reason fails to exercise its or his powers as provided by this section or so to perform its or his duties, the Minister may exercise those powers and perform those duties as if he were that firm of accountants or liquidator in order to carry out as far as possible the provisions of this section.

22. This Act shall be called the Corporation for Public Deposits Act, 1984, and the provisions thereof, except section 21 (1), shall come into operation on 31 March 1984.

Short title and commencement.

CORPORATION FOR PUBLIC DEPOSITS ACT, 1984

Act No. 46, 1984

Schedule

LAWS REPEALED OR AMENDED

No. and year of law	Short title	Extent of repeal or amendment
Act No. 27 of 1943 ..	Insurance Act, 1943	The amendment of section 21 by the deletion in paragraph (d) of subsection (1) of the words "or with the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949)", and the substitution for the words "building society or Corporation" of the words "or building society"
Act No. 33 of 1949 ..	National Finance Corporation Act, 1949	The repeal of the whole
Act No. 39 of 1955 ..	National Finance Corporation Amendment Act, 1955	The repeal of the whole
Act No. 24 of 1956 ..	Pension Funds Act, 1956	The amendment of section 19 by the deletion in paragraph (b) of subsection (1) of the words "or with the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949)"
Act No. 44 of 1958 ..	Post Office Act, 1958	The amendment of section 12Q by the deletion of paragraph (a) of subsection (1)
Act No. 15 of 1960 ..	National Finance Corporation Amendment Act, 1960	The repeal of the whole
Act No. 23 of 1965 ..	Banks Act, 1965	<p>(a) The amendment of section 1—</p> <p>(i) by the deletion in subsection (1) of paragraph (c) of the definition of "liquid assets"; and</p> <p>(ii) by the deletion in the said subsection (1) of the definition of "National Finance Corporation";</p> <p>(b) the amendment of section 2 by the deletion in subsection (1) of the words "or the National Finance Corporation";</p> <p>(c) the amendment of section 17 by the deletion in subparagraph (iv) of paragraph (a) of subsection (2) of the words "or by the National Finance Corporation"; and</p> <p>(d) the amendment of section 22 by the deletion in subsection (3) of the words "the National Finance Corporation"</p>
Act No. 24 of 1965 ..	Building Societies Act, 1965	<p>(a) The amendment of section 1—</p> <p>(i) by the deletion of paragraph (c) of the definition of "liquid assets";</p> <p>(ii) by the deletion of the definition of "National Finance Corporation"; and</p> <p>(iii) by the deletion in paragraph (d) of the definition of "prescribed investments" of the words "deposits with the National Finance Corporation and" and the words "deposits or"; and</p> <p>(b) the amendment of section 29 by the deletion of paragraph (c)</p>
Act No. 91 of 1972 ..	Financial Institutions Amendment Act, 1972	The repeal of sections 5 and 6