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GOVERNMENT GAZETTE

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 985.

23 May 1980.

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23 Mei 1980.

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

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

No. 53 of 1980: South African Mutual Life Assurance Society (Private) Amendment Act, 1980.

No. 53 van 1980: Private Wysigingswet op die Suid-Afrikaanse Onderlinge Lewensversekeringsgenootskap, 1980.

SOUTH AFRICAN MUTUAL LIFE ASSURANCE SOCIETY
(PRIVATE) AMENDMENT ACT, 1980

Act No. 53, 1980

GENERAL EXPLANATORY NOTE:

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

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

PRIVATE ACT

To amend the South African Mutual Life Assurance Society (Private) Act, 1966, so as to reflect the correct name of the South African Mutual Life Assurance Society in the Afrikaans text; to define the persons who are entitled to membership of the Society; to define the circumstances in which membership of the Society will cease; to amend the provisions relating to the voting rights of members in the event of a poll; to define the procedure to be adopted for the amendment of the said Act; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 2 May 1980.)*

WHEREAS the South African Mutual Life Assurance Society (hereinafter referred to as "the Society") was incorporated in the first instance by the South African Mutual Life Assurance Society Incorporation Act, 1888 (Act No. 6 of 1888 (Cape)), and is at present incorporated by the South African Mutual Life Assurance Society (Private) Act, 1966 (Act No. 52 of 1966) (hereinafter referred to as "the principal Act");

AND WHEREAS the principal Act has been amended from time to time by the members of the Society in general meeting in terms of section 73 of the principal Act, which amendments have been confirmed by the Cape Provincial Division of the Supreme Court;

AND WHEREAS at a meeting of the Society held on the sixth day of December 1979 the Directors were authorized by a resolution duly passed to promote a Bill to amend the principal Act;

AND WHEREAS it is desirable that section 2 of the Afrikaans text of the principal Act be amended in order to reflect the correct name of the Society;

AND WHEREAS in view of developments that have taken place with regard to the Society's contracts of assurance it is desirable that section 6 of the principal Act be amended to define the persons who are entitled to membership of the Society;

AND WHEREAS, having regard to the proposed amendment of the said section 6, it is desirable to amend section 7 of the principal Act to define the circumstances in which membership of the Society will cease;

AND WHEREAS, having regard to the proposed amendments to sections 6 and 7 of the principal Act, it is desirable to amend section 9 thereof in relation to the voting rights of members in the event of a poll;

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AND WHEREAS it is desirable that section 73 of the principal Act be amended in order to define the extent to which and the circumstances in which the principal Act may be altered and the procedure for so doing, particularly in view of the provisions of the Companies Act, 1973 (Act No. 61 of 1973):

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

1. The following section is hereby substituted for section 2 in the Afrikaans text of the principal Act:

Substitution of section 2 in Afrikaans text of Act 52 of 1966.

“Voortbestaan 2. Die Genootskap wat oorspronklik deur die ,Zuid van Genoot- Afrikaanse Onderlinge Levensverzekering Genoot- skap. schap Inlijvings Wet, 1888’ (Wet No. 6 van 1888), van die Kaap die Goeie Hoop gestig is en tans ingelyf is deur die ,Zuid Afrikaanse Onderlinge Levensverzekering Genootschap Private Wet, 1915’ (Wet No. 16 van 1915), bly voortbestaan, nieteenstaande die herroeping van die laasgenoemde Wet deur hierdie Wet, as ’n regs persoon onder die naam van die Suid-Afrikaanse Onderlinge Lewensversekerings- genootskap, totdat hy deur sy lede of deur geregtelike proses ontbind word, en onder hierdie naam stel hy regsdinge in en is hy aan sodanige gedinge onderworpe, verkry en vervreem hy eiendom, sluit hy ooreenkomste en doen hy al sy sake in die algemeen.”.

2. The following section is hereby substituted for section 6 of the principal Act:

Substitution of section 6 of Act 52 of 1966.

“What persons 6. (1) Every person who is at the commencement to be members. of this Act a member of the Society, or who has effected or who thereafter effects an assurance with the Society of whatsoever nature or kind, shall, subject to subsection (3), be a member.
(2) For the purposes of subsection (1), but subject to subsection (3), the following persons shall be deemed to have effected assurances with the Society and shall accordingly be members:
(i) Any member of a retirement annuity fund, if the obligations of the fund to that member are underwritten by the Society, while and so long as such obligations have not been discharged;
(ii) any person who was previously a member of a retirement annuity fund and who is in receipt of an annuity under any contract entered into by the Society with that fund, while and so long as such annuity remains payable to such person; and
(iii) any contractor who has contracted with the Society in respect of the operation of a group life assurance scheme, pension fund or provident fund, while and so long as such contract or any assurance effected with the Society pursuant to the provisions of the scheme or fund in respect of which he has contracted with the Society, remains in force, excluding, however, an assurance effected in terms of a conversion option.
(3) Any person, other than a contractor referred to in subsection (2) (iii), who effects or has effected an assurance with the Society pursuant to the provisions of any group life assurance scheme, pension fund or provident fund, not being an assurance effected in

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terms of a conversion option, and any cessionary or assignee of such assurance, shall not by virtue thereof be a member of the Society, nor shall he or any such cessionary or assignee in any event enjoy any voting rights in respect of such assurance; nor shall a retirement annuity fund any part of whose obligations to its members has been underwritten by the Society, be a member.

(4) For the purposes of this section 'assurance' shall mean any contract of assurance or insurance and shall include any contract under which the Society assumes an obligation to pay an annuity, or to pay moneys to any pension fund or provident fund or to any nominee thereof or to the members of any such fund or their dependants or nominees; and 'group life assurance scheme' shall mean a scheme in terms of which the Society has contracted to provide benefits on the death or disablement of the members of any group of persons, including the employees of any one employer, or of a combination of employers, or the members of the families of such employees, or the members of any group of persons carrying on the same occupation.

(5) Subject to subsection (3) and any bye-laws made or deemed to have been made under this Act, every person registered in the records of the Society as the owner of a policy acquired by cession or assignment or by operation of law (not being a person to whom any such policy has been ceded as security for any debt or other obligation) shall also be a member."

3. The following section is hereby substituted for section 7 of the principal Act:

Substitution of section 7 of Act 52 of 1966.

35 "Duration of membership. 7. Every member not being a member referred to in section 6 (2), shall be entitled to the rights and privileges of membership until his death, or, in the case of a member which is not a natural person, until its dissolution, unless all claims against the Society in respect of the policy constituting membership are previously satisfied, or unless such policy lapses or is forfeited, or unless the right to such policy passes by cession or assignment or by operation of law and the person entitled thereto procures himself to be registered as the owner of such policy in the records of the Society."

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

Substitution of section 9 of Act 52 of 1966.

50 "Title to vote at poll. 9. (1) In the case of a poll being taken, every member shall be entitled to vote according to the following scale:

55 (i) A member who is the holder of one or more policies but is not in receipt of any annuity shall be entitled to three votes, together with an additional vote for each fifty rand, or portion thereof, forming part of the total premiums then payable per annum in respect of such policy or policies;

60 (ii) a member who is in receipt of one or more annuities but is not the holder of any policy other than an annuity policy, shall be entitled to three votes, together with an additional vote for each two hundred and fifty rand, or portion thereof, forming part of the total annuity or annuities then payable per annum;

65 (iii) a member who is the holder of one or more policies and is also in receipt of one or more annuities shall be entitled to three votes, together

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with an additional vote for each two hundred and fifty rand, or portion thereof, forming part of the sum arrived at by multiplying the total premiums then payable per annum in respect of such policy or policies by five, and adding thereto the total of such annuity or annuities then payable per annum:

Provided that, notwithstanding the foregoing—

- (a) a member who is in receipt of an annuity shall not be entitled to any voting rights in respect thereof unless such annuity is payable to him in terms of an annuity policy held by him or unless he is or was a member of a retirement annuity fund and such annuity is payable to him in terms of a contract with the Society referred to in section 6 (2) (i) or (ii);
- (b) a policy which has been converted into a paid-up assurance after it has been effected shall not be taken into account for the purpose of calculating any additional votes to which a member may be entitled; and
- (c) no member shall be entitled to more than 100 votes in all.

(2) For the purposes of subsection (1)—

- (i) a member of a retirement annuity fund shall, until the commencing date for the payment of his annuity, be deemed to be the holder of a policy making provision for such annuity, and the total contributions payable to such fund per annum in respect of such annuity at any time shall be deemed to be the total premium then payable per annum in respect of such policy;
- (ii) a contractor referred to in section 6 (2) (iii) shall be deemed to be the holder of the policies effected with the Society in pursuance of the provisions of the scheme or fund in respect of which he has contracted with the Society, excluding, however, any policy effected in terms of a conversion option; and
- (iii) a person who has effected an assurance with the Society in terms of which the Society has wholly or partly underwritten the obligations of any pension fund or provident fund to its members or former members shall at any time be deemed to be in receipt of annuities per annum equivalent in value to the total amount of annuities then payable by the Society per annum to the members and former members of such fund under such assurance, and this provision shall also apply to any pension fund or provident fund which has effected such assurance in relation to its own obligations to its members or former members.

(3) If the premiums due under any policy are payable otherwise than in equal amounts each year for the whole term thereof, or if in the case of any policy no fixed premium is payable, the directors shall for the purposes of subsection (1) determine an amount which shall be deemed to be the annual premium payable in respect of such policy. Similarly, if any question arises as to the amount of any premium payable in respect of any policy, or as to the equivalent value in any currency of any sum expressed in another currency, or as to any other matter arising out of the application of the said subsection, the directors shall determine such amount, value or matter, as the case may be, for the purposes aforesaid.

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All determinations in terms of this subsection shall be made on a basis which the directors, in their discretion, deem fair and equitable.

5 (4) Determinations in terms of subsection (3) shall be made as and when required for the purpose of recording the votes of members, and any determination so made shall be binding on the directors and members and remain of force until the recording of such votes has been concluded.

10 (5) For the purposes of this section 'premium' in relation to any policy shall mean all moneys other than stamp duty and interest paid or payable to the Society in respect of such policy.

15 (6) Where two or more persons are jointly members by virtue of any policy or by virtue of their being in receipt of an annuity, only one of them shall be entitled to vote in respect of such policy or annuity; such one to be authorized by the other in writing, and failing such authority the member whose name appears first in the records of the Society shall be so entitled."

5. Section 73 of the principal Act is hereby amended—

Amendment of
section 73 of
Act 52 of 1966.

(a) by the substitution for subsection (1) of the following subsection:

25 "(1) Subject to the provisions of this section the Society may by resolution of its members alter or add to any of the [aforegoing] provisions of this Act other than those contained in sections 2, 6 [and], 8, 73, 79, 80 and 81 [, so far as may be required to enable it—

30 (a) to carry on its business more economically or more efficiently; or

(b) to attain its main purpose by new or improved means; or

35 (c) to enlarge or change the local area of its operations; or

40 (d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the Society]: Provided that no such alteration or addition shall make provision for any matter which could not lawfully be included in the memorandum of association or articles of association of a company registered under the Companies Act, 1973 (Act No. 61 of 1973) [1926 (Act No. 46 of 1926), and for the purposes of this subsection the main purpose of the Society shall be deemed to be to carry on life and accident insurance business].";

50 (b) by the substitution for subsection (3) of the following subsection:

"(3) The procedure at such meeting shall be regulated in all respects by the law at that time applicable to meetings of the Society, save that no poll shall be demanded.";

55 (c) by the substitution for subsection (4) of the following subsection:

"(4) The alteration or addition shall not take effect until and except in so far as it is confirmed, on [petition] application, by the Cape Provincial Division of the Supreme Court.";

60 (d) by the deletion of subsection (5).

6. This Act shall be called the South African Mutual Life Short title.
Assurance Society (Private) Amendment Act, 1980.