

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 even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 1236.

23 Julie 1976.

No. 1236.

23 July 1976.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee 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. 101 van 1976: Wysigingswet op Finansiële Instellings, 1976.

No. 101 of 1976: Financial Institutions Amendment Act, 1976.

ACT

To amend the Insurance Act, 1943, so as to define or further define certain expressions; to provide for the conversion of foreign insurers into domestic insurers; to amend the provisions relating to statements and valuation of assets and statements and valuation of liabilities; to further regulate the holding of assets; to provide for the regulation of remuneration for certain services; to amend the restriction on payments on death of children; and to supplement the provisions relating to penalties; to amend the Stock Exchanges Control Act, 1947, so as to prohibit the publication by a person, other than a licensed stock exchange, of particulars in respect of certain securities; to amend the Unit Trusts Control Act, 1947, so as to define the expression "liquid assets"; to replace the provisions relating to the inclusion of approved securities in every unit portfolio and to provide instead for the inclusion of liquid assets in certain unit portfolios; and to allow also a domestic insurer to act as trustee to a unit trust scheme; to amend the Pension Funds Act, 1956, so as to define or further define certain expressions; to further regulate the holding of assets for the purposes of section 19 (1) of the said Act and the granting of loans by pension funds to their members; and to provide for the protection of pension benefits; to amend the Friendly Societies Act, 1956, so as to alter the definition of the expression "registrar"; to increase the amount for which the life of a child under the age of fourteen years may be insured; to further regulate the holding of assets for the purposes of section 20 (2) of the said Act; and to grant additional powers to the registrar; to amend the Inspection of Financial Institutions Act, 1962, so as to apply the provisions thereof to administrators of the affairs of friendly societies; to amend the Participation Bonds Act, 1964, so as to alter the conditions on which moneys may be accepted for investment in participation bonds; to alter the rights of participants in participation bonds to enforce their rights against mortgagors and to transfer or cede such rights; to provide for the amalgamation of participation bond schemes; and to extend the conditions on which the rules of a participation bond scheme may be amended; to amend the Banks Act, 1965, so as to define or further define certain expressions; to extend the exemptions from the provisions of the Act; to extend the grounds for cancellation or suspension of registration of a banking institution; to provide for the registration of bank controlling companies and the cancellation of such registration and to require the submission by them of returns to the registrar; to extend the powers to prescribe supplementary liquid assets; to restrict certain transactions by banking institutions; to subject the establishment or acquisition of a subsidiary by a banking institution to the approval of the registrar; to require the submission by banking institutions of certain particulars to the registrar; to restrict the number of banking institutions which may be controlled by a controlling banking institution or a bank con-

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trolling company; to subject representation in the Republic of foreign banks to the approval of the registrar; to prohibit the issue of certain types of shares as well as the registration of shares in the name of a nominee; to provide for the submission of certain information by shareholders of a banking institution or a bank controlling company and for the classification of shareholders; to indemnify banking institutions, bank controlling companies and their officers against prosecution in the case of *bona fide* actions; to limit shareholding in banking institutions and in bank controlling companies; to provide for the reduction in certain circumstances of the shareholdings of foreigners in banking institutions and bank controlling companies; and to require adjustment of the register of members; and to amend the Building Societies Act, 1965, so as to further define the expression "prescribed investments"; to extend the circumstances under which certain shares may be repaid; and to alter the requirements in respect of branch auditors; and to provide for incidental matters.

(English text signed by the State President.)

(Assented to 5 July 1976.)

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

1. Section 1 of the Insurance Act, 1943, is hereby amended—
- (a) by the substitution in subsection (1) for subparagraph (iii) of paragraph (a) of the definition of "approved reinsurances" of the following subparagraph:
- "(iii) in the case of short-term insurance business and compulsory third party insurance business, any reinsurances effected under a policy or contract of reinsurance in terms of which the reinsurer maintains in the Republic moneys with the insurer by whom such reinsurance was effected on which the insurer has a prior charge and lien as security against losses which may be occasioned by the failure of the reinsurer to discharge his obligations under the said policy or contract or by the termination of such policy or contract for any reason;"
- (b) by the substitution in the said subsection (1) for the definition of "domestic insurer" of the following definition:
- "'domestic insurer' means a registered insurer whose head office is in the Republic and includes any other registered insurer who is in terms of subsection (4) of section 3 *quat* deemed to be a domestic insurer;"
- (c) by the substitution in the said subsection (1) for the definition of "funeral policy" of the following definition:
- "'funeral policy' means a policy whereby the insurer assumes an obligation, in return for a premium or the promise of a premium, to provide, on the death of any person, benefits which involve

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 and section 1 of Act 91 of 1972.

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amounts not exceeding in the aggregate five hundred rand and which consist principally of—

- (a) provision for the funeral of that person; or
- (b) the grant of some other non-monetary benefit to any person,

whether or not the policy provides for the payment, at the option of the insurer or any other person, of a sum of money in lieu of the provision of such funeral or the grant of such other non-monetary benefit, and whether or not it provides for the payment of a sum of money in addition to the provision of such funeral or the grant of such other non-monetary benefit;”;

- (d) by the substitution in the said subsection (1) for the definition of “industrial policy” of the following definition:

“‘industrial policy’ means a policy (other than a funeral policy) whereby the insurer assumes such an obligation as is described in the definition of the expression ‘life policy’, not exceeding in value the sum of one thousand rand, in return for a premium or the promise of a premium payable from time to time at intervals not exceeding two months, if the insurer has expressly or tacitly undertaken to send a person from time to time to the owner of the policy or to his residence or place of work to collect the premiums;”;

- (e) by the substitution in the said subsection (1) for paragraph (a) of the definition of “insurance business” of the following paragraph:

“(a) the activities of a friendly society, unless such society employs a person whose main remunerated occupation consists of inducing persons to become members of the society, or of calling on members of the society at their residences or places of work for the purpose of collecting from them contributions or subscriptions towards the society’s funds, or unless such friendly society grants any annuity exceeding one hundred and forty-four rand per annum, or provides in respect of any member or other person for payments either on the death of such member or other person or in the form of an endowment or endowment insurance on the life of such member or other person, exceeding in all the sum of one thousand rand (exclusive of bonuses), at any time after the date of commencement of the Friendly Societies Act, 1956, and not in fulfilment of any obligations in existence before the said date;”;

- (f) by the insertion in the said subsection (1) after the definition of “motor business” of the following definition:

“‘mutual insurer’ means an insurer—

- (a) of whom all members—
 - (i) qualify as such by virtue only of their being owners of policies issued by the insurer; and
 - (ii) are entitled to participate in the exercise of control in general meeting of that insurer; and

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- (b) whose profits are distributable only to owners of policies issued by the insurer, in accordance with the instruments under which he was constituted and carries on business.”; and
- (g) by the substitution for paragraph (b)bis of subsection (2) of the following paragraph:
- “(b)bis approved reinsurances referred to in subparagraph (iii) of paragraph (a) of the definition of ‘approved reinsurances’ in subsection (1), shall not be deemed to cover the contingent liabilities under unmaturing policies of the insurer by whom such reinsurances have been effected, to an amount exceeding the amount of the moneys maintained in the Republic by the reinsurer with the insurer and on which the insurer has a prior charge and lien as security against losses which may be occasioned by the failure of the reinsurer to discharge his obligations under the relevant policy or contract or by the termination for any reason of such policy or contract;”.

2. The following section is hereby inserted in the Insurance Act, 1943, after section 3ter:

Insertion of section 3quat in Act 27 of 1943.

“Conversion of foreign insurers into domestic insurers.”

3quat. (1) Any foreign insurer who immediately before the commencement of the Financial Institutions Amendment Act, 1976, was lawfully carrying on one or more classes of insurance business in the Republic, shall within a period of two years after such commencement—

(a) if he is not a mutual insurer, submit a scheme to the registrar for the transfer of his insurance business which he carries on in the Republic to one or more domestic insurers within the period mentioned in the proviso to section 4 (3)ter; or

(b) if he is a mutual insurer—

- (i) submit a scheme in accordance with the provisions of paragraph (a); or
- (ii) submit an application to the registrar for the issue of a certificate in terms of subsection (3).

(2) A scheme mentioned in paragraph (a) or (b) (i) of subsection (1) shall be dealt with as if it were a transaction to which subsection (1) (b) of section 25 applies, notwithstanding anything to the contrary contained in that section.

(3) On application by a foreign insurer who immediately before the commencement of the Financial Institutions Amendment Act, 1976, was lawfully carrying on insurance business in the Republic and is a mutual insurer, the registrar may issue a certificate that such insurer is deemed to be a domestic insurer, if such foreign insurer has satisfied the registrar that—

(a) he carries on his insurance business in the Republic under the management of a local board, of which—

- (i) the membership is not less than four persons; and
- (ii) the powers include the power to determine, subject to the provisions of section 17, in

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what manner the funds held by the insurer in the Republic in respect of the business which he carries on in the Republic shall be invested;

- (b) he complies with the provisions of section 17;
- (c) on a basis of valuation that is acceptable to the registrar, the proportion which the value of the assets which he holds in the Republic in respect of the business which he carries on in the Republic bears to the value of the liabilities in respect of such business, is not less than that which the value of the assets which he holds in respect of the business which he carries on outside the Republic bears to the value of the liabilities in respect of the last-mentioned business or is less to such extent only as is equitable in the special circumstances that pertain to the business that he carries on inside the Republic and that he carries on outside the Republic; and
- (d) no owners of policies other than owners of policies forming part of the business carried on by him in the Republic, and no creditors other than creditors in respect of such business have any claim to the assets held by him in respect of such business;

and if the constitution of the board mentioned in paragraph (a) has been made known to the registrar and its powers have been approved by him.

(4) When the registrar has issued a certificate in terms of subsection (3) in respect of any foreign insurer, then, notwithstanding anything to the contrary contained in this Act or any other law, such foreign insurer—

(a) shall for the purposes of this Act and from a date to be stated in such certificate, be deemed to be a domestic insurer in respect of the insurance business carried on by him in the Republic;

(b) as regards the local board mentioned in paragraph (a) of subsection (3)—

(i) shall disclose any change in its constitution to the registrar; and

(ii) may not change its powers without the approval of the registrar;

(c) shall as regards his insurance business in the Republic be deemed to be a juristic person for the purposes of this Act;

(d) shall as regards such business have the same power to acquire and to own immovable property in the Republic as if he were a company incorporated in the Republic; and

(e) may not, unless—

(i) the provisions of section 17 are complied with;

(ii) the requirements of paragraph (c) of subsection (3) are observed; and

(iii) the approval in writing of the valuator, the local board mentioned in paragraph (a) of subsection (3), and the registrar has been obtained,

transfer any of the assets which he holds in the Republic in respect of the insurance business which he carries on in the Republic to any other business which he carries on.”

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3. Section 4 of the Insurance Act, 1943, is hereby amended by the substitution for subsection (3)ter of the following subsection:

Amendment of section 4 of Act 27 of 1943, as amended by section 1 of Act 19 of 1945, section 3 of Act 73 of 1951, section 4 of Act 79 of 1959, section 10 of Act 64 of 1960, section 3 of Act 10 of 1965 and section 2 of Act 39 of 1969.

“(3)ter Notwithstanding the provisions of paragraph (a) or (b) of subsection (3)bis, any registered insurer who is a foreign insurer within the meaning of that term as defined in section 1 (1), and who immediately prior to the commencement of the Insurance Amendment Act, 1965, was carrying on in the Republic any class of insurance business in respect of which he was registered, shall be deemed to be duly registered in terms of this Act as a foreign insurer authorized to carry on the business in respect of which he was so registered: Provided that after the expiry of a period of three years after the commencement of the Financial Institutions Amendment Act, 1976, or such longer period as the registrar may in respect of a particular insurer determine, such insurer shall no longer be deemed to be so registered.”

4. Section 13 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (a) of the following paragraph:

Amendment of section 13 of Act 27 of 1943, as substituted by section 11 of Act 73 of 1951 and amended by section 10 of Act 10 of 1965 and section 2 of Act 41 of 1966.

“(a) The statement shall *inter alia* include—

(i) the amount of the contingent liabilities of the insurer concerned under unexpired policies, calculated in accordance with the provisions of the Second Schedule to this Act;

(ii) the amount, as estimated by the insurer, of his liabilities in respect of claims under policies which had been intimated to the insurer or to any agent of the insurer but which had not been paid by the insurer prior to the date of termination of the financial year referred to in section 12, and as approved by the registrar as far as short-term insurance business is concerned or, in the absence of such approval, as estimated by the registrar as far as such business is concerned;

(iiA) if the insurer carried on any short-term insurance business, the amount, as estimated by the insurer, of his liabilities relating to claims under policies issued in respect of such business which had arisen but not been intimated to the insurer or any agent of the insurer prior to the date referred to in subparagraph (ii), and as approved by the registrar or, in the absence of such approval, as estimated by the registrar;

(iii) the amount of any liability in respect of income tax or other taxes for the year concerned and for preceding years, and, if any such tax has not been finally assessed, the estimated amount in respect of such taxes.”

5. Section 15 of the Insurance Act, 1943, is hereby amended—

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 and section 3 of Act 41 of 1966.

(a) by the substitution for paragraph (f) of the following paragraph:

“(f) 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, 6 or 6A of the Third Schedule to this Act shall be

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shown at an amount which does not exceed the lesser of the two amounts stated below, namely—

- (i) the cost to the insurer concerned of acquiring the asset, after deducting the amount of any interest due or accrued which was included in such cost, and after making such adjustments (if any) in respect of brokerage, stamp duty and underwriting commission as may be required by the methods of bookkeeping habitually applied by the insurer concerned; or
- (ii) the amount of capital payable on redemption (whether in one sum or by instalments):

Provided that where the amount arrived at in terms of subparagraph (i) differs from the amount referred to in subparagraph (ii), the insurer concerned may show the asset at an amount which has been arrived at by a method of annual adjustments approved by the registrar: Provided further that to the amount determined in accordance with the foregoing provisions there may be added the amount of any interest due or accrued at the date to which the statements relate.”;

(b) by the insertion after paragraph (f) of the following paragraph:

“(fA) Every asset which—

- (i) a registered insurer holds in respect of long-term insurance business;
- (ii) is not of a kind specified in paragraph (b) or in paragraph 3, 4, 4A, 5, 6 or 6A of the Third Schedule to this Act; and
- (iii) is interest-bearing and redeemable not later than at a fixed date;

shall be shown at an amount which is determined in the same manner as that prescribed in paragraph (f): Provided that if the registrar is of opinion that the asset should not be shown at such amount, it shall be shown at an amount as determined in accordance with paragraph (g) or (h), whichever is applicable to the particular asset.”;

(c) by the insertion in paragraph (g), after the expression “paragraph (f)”, of the words “or paragraph (fA)”; and

(d) by the substitution for paragraph (h) of the following paragraph:

“(h) Every asset to which the provisions of the preceding paragraphs do not apply shall be valued at an amount not exceeding the price which would be obtained on a sale in the Republic between a willing seller and a willing purchaser (between whom there is no other direct or indirect connection), as estimated by the insurer and approved by the registrar or, if the registrar does not approve of an estimate made by the insurer, as estimated by the registrar.”.

6. Section 17 of the Insurance Act, 1943, is hereby amended—

- (a) by the substitution of the following subsection for subsection (2):
- “(2) (a) The assets referred to in subsection (1) (b)

Amendment of section 17 of Act 27 of 1943, as substituted by section 12 of Act 10 of 1965 and amended by

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shall, subject to the provisions of subsections (2A) and (3), include assets of the kinds mentioned in Part I of the Third Schedule having an aggregate value not less than—

section 4 of Act 41 of 1966 and section 2 of Act 91 of 1972.

- (i) thirty per cent of the amount of the net liabilities referred to in subsection (1) (b), excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and
 - (ii) fifty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds.
- (b) The assets last-mentioned in paragraph (a) shall, subject to the provisions of subsections (2A) and (3), include bills, bonds or securities issued by or loans to the Government of the Republic having an aggregate value not less than—
- (i) fifteen per cent of the amount of the said net liabilities, excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and
 - (ii) twenty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds.”;

(b) by the insertion after subsection (2) of the following subsection:

“(2A) For the purposes of calculating the amount of any liabilities under unmaturing policies for the purpose of calculating the amount of the net liabilities referred to in subsection (2), the Minister may by regulation prescribe any other assumed rate of interest than that prescribed in terms of paragraph (c) of section 4 of the Second Schedule to this Act, and may, if he prescribes such other assumed rate of interest, by regulation require the insurer concerned to submit such statements to the registrar, as may be deemed necessary to indicate how the amount of his net liabilities has been calculated for the purposes of the said subsection (2) and prescribe the form of such statements.”;

(c) by the addition to subsection (3) of the following proviso:

“Provided that this subsection shall not apply if any other assumed rate of interest than that prescribed in terms of paragraph (c) of section 4 of the Second Schedule to this Act has been prescribed in terms of subsection (2A).”;

(d) by the substitution for subsection (4) of the following subsection:

“(4) A domestic insurer who carries on short-term insurance business shall in respect of such business—

(a) hold assets having an aggregate value not less than the amount of his net liabilities in respect of

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such business, plus an additional amount equal to the greater of the following amounts, namely—

- (i) two hundred thousand rand; or
- (ii) ten per cent or such other percentage as may from time to time be prescribed by regulation of the greater of the following amounts, namely—

(aa) his premium income (after deduction of approved reinsurances) in the previous financial year; or

(bb) his premium income (after deduction of approved reinsurances) in the expired portion of the current financial year;

(b) hold in the Republic assets of one or more of the kinds mentioned in the Third Schedule to this Act having an aggregate value not less than the amount of his net liabilities in respect of such business carried on by him in the Republic, plus an additional amount equal to the greater of the following amounts, namely—

- (i) two hundred thousand rand; or
- (ii) ten per cent or such other percentage as may from time to time be prescribed by regulation of the greater of the following amounts, namely—

(aa) his premium income (after deduction of approved reinsurances) in respect of such business carried on by him in the Republic in the previous financial year; or

(bb) his premium income (after deduction of approved reinsurances) in respect of the aforementioned business in the expired portion of the current financial year.”;

(e) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) The assets required to be held in terms of paragraph (b) of subsection (4) shall include assets of the kinds mentioned in Part I of the Third Schedule having an aggregate value not less than thirty per cent of the aggregate value of the first-mentioned assets.”;

(f) by the deletion of paragraph (b) of the said subsection (5);

(g) by the substitution for paragraph (c) of the said subsection (5) of the following paragraph:

“(c) The assets of the kinds mentioned in Part I of the Third Schedule and required to be held in terms of paragraph (a), shall include bills, bonds or securities issued by or loans to the Government of the Republic having an aggregate value not less than fifteen per cent of the aggregate value of the assets required to be held in terms of paragraph (b) of subsection (4).”;

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(h) by the insertion after the said subsection (5) of the following subsections:

“(5A) For the purposes of subsections (2) and (5) it shall, with effect from 26 June 1974, be deemed that of the value of a domestic insurer's holding of units in a unit trust scheme mentioned in paragraph 11 of Part II of the Third Schedule, amounts equal to such percentages, if any, as the registrar may from time to time determine, are held in—

- (a) assets of the classes mentioned in Part I of the Third Schedule; and
- (b) bills, bonds or securities issued by or loans to the Government of the Republic.

(5B) Any regulation made under paragraph (a) (ii) or (b) (ii) of subsection (4) which prescribes a percentage that is higher than that in force at the commencement of such regulation, shall also prescribe the manner in which a domestic insurer who immediately after such commencement does not comply with the provisions of subsection (4) or (5) shall comply therewith.”; and

by the substitution for subsection (6) of the following subsection:

“(6) The provisions of subsections (4), (5), (5A) and (5B) shall *mutatis mutandis* apply to every domestic insurer in respect of his compulsory third party insurance business.”

7. Section 18 of the Insurance Act, 1943, is hereby amended—

(a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) The assets last-mentioned in paragraph (a) shall include bills, bonds or securities issued by or loans to the Government of the Republic having an aggregate value not less than—

- (i) fifteen per cent of the amount of the said net liabilities, excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and
- (ii) twenty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds.”;

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

“(3) The provisions of subsections (2A) and (3) of section 17 shall *mutatis mutandis* apply to every foreign insurer.”;

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

“(4) Every foreign insurer who carries on short-term insurance business in the Republic shall in respect of such business hold assets in the Republic of one or more of the kinds mentioned in the Third Schedule having an aggregate value not less than the amount of

Amendment of section 18 of Act 27 of 1943, as substituted by section 13 of Act 10 of 1965 and amended by section 5 of Act 41 of 1966 and section 3 of Act 91 of 1972.

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his net liabilities in respect of such business carried on by him in the Republic, plus an additional amount equal to the greater of the following amounts, namely—

- (a) two hundred thousand rand; or
- (b) ten percent or such other percentage as may from time to time be prescribed by regulation of the greater of the following amounts, namely—

(i) his premium income (after deduction of approved reinsurances) in respect of such business carried on by him in the Republic in the previous financial year; or

(ii) his premium income (after deduction of approved reinsurances) in respect of the aforementioned business in the expired portion of the current financial year.”;

(d) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) The assets required to be held in terms of subsection (4) shall include assets of the kinds mentioned in Part I of the Third Schedule having an aggregate value not less than thirty per cent of the aggregate value of the first-mentioned assets.”;

(e) by the deletion of paragraph (b) of the said subsection (5);

(f) by the substitution for paragraph (c) of the said subsection (5) of the following paragraph:

“(c) The assets of the kinds mentioned in Part I of the Third Schedule and required to be held in terms of paragraph (a), shall include bills, bonds or securities issued by or loans to the Government of the Republic having an aggregate value not less than fifteen per cent of the aggregate value of the assets required to be held in terms of subsection (4).”;

(g) by the insertion after the said subsection (5) of the following subsections:

“(5A) For the purposes of subsections (2) and (5) it shall, with effect from 26 June 1974, be deemed that of the value of a foreign insurer's holding of units in a unit trust scheme mentioned in paragraph 11 of Part II of the Third Schedule, amounts equal to such percentages, if any, as the registrar may from time to time determine, are held in—

(a) assets of the classes mentioned in Part I of the Third Schedule; and

(b) bills, bonds or securities issued by or loans to the Government of the Republic.

(5B) Any regulation made under paragraph (b) of subsection (4) which prescribes a percentage that is higher than that in force at the commencement of such regulation, shall also prescribe the manner in which a foreign insurer, who immediately after such com-

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commencement does not comply with the provisions of subsection (4) or (5) shall comply therewith.”; and
 (h) by the substitution for subsection (6) of the following subsection:

“(6) The provisions of subsections 4, (5), (5A) and (5B) shall *mutatis mutandis* apply to every foreign insurer in respect of his compulsory third party insurance business.”

8. Section 18bis of the Insurance Act, 1943, is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 18bis of Act 27 of 1943, as substituted by section 4 of Act 91 of 1972.

“(2) Any registered insurer who at the date of commencement of the Financial Institutions Amendment Act, 1972, did not hold assets in the form of bills, bonds or securities issued by or loans to the Government of the Republic to the aggregate value prescribed by section 17 or 18, as the case may be, shall, until he holds assets in that form having the aggregate value so prescribed, hold at the end of each financial year, assets in such form having an aggregate value not less than—

(a) the aggregate value prescribed by section 17 or 18, as the case may be, less

(b) the amount which bears the same ratio to the amount by which the aggregate value of assets in such form which the insurer would have been required to hold on 30 September 1971, had the Financial Institutions Amendment Act, 1972, been then applicable, exceeds the aggregate value of assets in such form which the insurer held at that date as the period from the end of the financial year in question to the end of a period of ten years extending from the beginning of the financial year in which such commencement date falls, bears to a period of ten years.”

9. Section 21 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (f) of subsection (1) of the following paragraph:

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 and section 1 of Act 75 of 1970

“(f) an asset consisting of bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which has been approved by the registrar in terms of paragraph 6A of the Third Schedule to this Act or those issued by an institution in such an approved territory which the registrar has likewise approved, if the bills, bonds or securities in question are in the Republic.”

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

Insertion of section 23A in Act 27 of 1943.

“Consideration for certain services may be prohibited or limited.”

23A. (1) The Minister may make regulations prohibiting any consideration from passing or being offered, or limiting the consideration which may pass or be offered, from, by or on behalf of a registered insurer or an underwriter at Lloyds to any person as remuneration for services rendered or to be rendered by him towards effecting, maintaining or servicing a policy, or to any person associated in business with or related within the

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second degree of consanguinity or affinity to any person who has rendered or is to render such services.

(2) Any such regulation may—

(a) apply to—

- (i) registered insurers only;
- (ii) registered insurers and underwriters at Lloyds;
- (iii) specified kinds of consideration only;
- (iv) specified classes of insurance business only;
- (v) specified types of policies only;
- (vi) only specified classes of persons rendering or to render services contemplated in subsection (1);
- (vii) specified kinds of such services only;

(b) differentiate between registered insurers and underwriters at Lloyds, different kinds of consideration and different classes of insurance business, types of policies, classes of such persons and kinds of such services.”

11. The following section is hereby substituted for section 50 of the Insurance Act, 1943:

“Restriction of payments on death of children under fourteen years of age.

50. No insurer shall insure the life of a child who is under the age of fourteen years for any sum of money which exceeds or which, when added to any amount which to his knowledge is payable on the death of that child by any other insurer or by any friendly society, exceeds—

(a) one hundred rand, if the child is under six years of age; or

(b) two hundred rand, if the child is six years old or older, but is under fourteen years of age:

Provided that the preceding provisions of this section shall not prohibit the issue of a policy providing for the payment, on the death of any child, of a sum not exceeding the aggregate of all the premiums paid in respect of the policy, plus interest on each premium at a rate not exceeding seven and a half per cent per annum, compounded yearly.”

Amendment of section 50 of Act 27 of 1943, as substituted by section 26 of Act 10 of 1965.

12. The following section is hereby substituted for section 73 of the Insurance Act, 1943:

“General penalty.

73. Any person who contravenes any provision of this Act or any regulation made thereunder or fails to fulfil any obligation imposed on him by this Act or any such regulation shall be guilty of an offence and, if no penalty is specially prescribed in this Act or any such regulation for such contravention or default, shall be liable, if the offender is an individual, to a fine not exceeding two thousand rand, or to imprisonment for a period not exceeding one year without the option of a fine, or if the offender is not an individual, to a fine not exceeding two thousand rand.”

Substitution of section 73 of Act 27 of 1943, as amended by section 31 of Act 10 of 1965.

13. Section 76 of the Insurance Act, 1943, is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) The regulations may prescribe a penalty, not exceeding that prescribed by section 73, for a contravention of any provision thereof or for a failure to comply with any obligation imposed thereby.”

Amendment of section 76 of Act 27 of 1943, as substituted by section 9 of Act 41 of 1966.

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14. The Second Schedule to the Insurance Act, 1943, is hereby amended by the substitution for paragraph (c) of section 4 of the following paragraph:

Amendment of Second Schedule to Act 27 of 1943, as substituted by section 45 of Act 73 of 1951 and amended by section 35 of Act 10 of 1965 and section 26 of Act 39 of 1969.

- “(c) (i) The calculation shall be based on such an assumed rate of interest as may be prescribed by regulation.
- (ii) Such an assumed rate of interest may be so prescribed with retrospective effect, but not to a date prior to 31 December 1974, and may differ in respect of different kinds of life business or such business carried on in different countries.”.

15. The Third Schedule to the Insurance Act, 1943, is hereby amended—

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 and section 1 of Act 23 of 1970.

(a) by the substitution for paragraphs 1, 2, 3, 4, 5 and 6 of the following paragraphs:

- 1. Money in hand in the Republic.
- 2. Any amount standing to the credit of the insurer concerned in an account or as a deposit (excluding a negotiable deposit) with an office in the Republic of a banking institution, other than a discount house, registered otherwise than provisionally in terms of the Banks Act, 1965 (Act No. 23 of 1965), or a building society registered otherwise than provisionally in terms of the Building Societies Act, 1965 (Act No. 24 of 1965), or the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949).
- 3. (a) Bills, bonds or securities issued by or loans to the Government of the Republic.
- (b) Bills, bonds, securities or loans guaranteed by the Government of the Republic.
- (c) Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by a provincial administration or the administration of the Territory.
- 4. Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by any local authority in the Republic authorized by law to levy rates upon immovable property.
- 4A. Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by a Bantu Affairs Administration Board established by the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971).
- 5. Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Rand Water Board or the Electricity Supply Commission or the Land and Agricultural Bank of South Africa.
- 6. Bills, bonds or securities issued by or loans to an institution in the Republic, which the registrar has approved subject to such conditions as he may impose, and also bills, bonds or securities issued by or loans to such an institution which he has likewise approved.
- 6A. Bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the registrar has approved subject to such conditions as he may impose, and also those issued by an institution in such an approved territory which he has likewise approved”; and

(b) by the substitution for paragraph 9 of the following paragraph:

“9. Any claim secured by a mortgage bond on immovable property in the Republic, except any such claim which is guaranteed as contemplated in paragraph 3, 4, 4A or 5.”.

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16. The following section is hereby inserted in the Stock Exchanges Control Act, 1947, after section 2A:

Insertion of section 2B in Act 7 of 1947.

"Prohibition of publications. 2B. (1) No person, other than a licensed stock exchange, shall, as a regular feature of his business, enter into or carry on a scheme or arrangement in pursuance whereof particulars are published, issued or circulated of securities which such person or any other person desires to buy or to sell.

- (2) The provisions of subsection (1), shall not—
- (a) apply in respect of a scheme or arrangement permitting the publication of particulars of securities of the kinds referred to in section 2 (1) (c) and which the registrar has exempted from the provisions of this Act subject to such conditions (if any) as he may deem fit to impose;
- (b) be construed as limiting, amending, repealing or otherwise modifying any of the provisions of the Companies Act, 1973 (Act No. 61 of 1973), or as exempting a person of any duty imposed by the said Act, or as prohibiting a person from complying with any of the provisions of the said Act."

17. Section 1 of the Unit Trusts Control Act, 1947, is hereby amended by the insertion after the definition "licensed stock exchange" of the following definition:

Amendment of section 1 of Act 18 of 1947, as amended by section 1 of Act 11 of 1962, section 1 of Act 65 of 1963, section 5 of Act 58 of 1966 and section 4 of Act 65 of 1968.

"liquid assets means the aggregate amount of such approved securities, deposits and other assets (including Reserve Bank notes and subsidiary coin) as the registrar may by notice in the *Gazette* determine for the purposes of this definition."

18. (1) Section 8 of the Unit Trusts Control Act, 1947, is hereby amended—

Amendment of section 8 of Act 18 of 1947, as substituted by section 7 of Act 11 of 1962 and amended by section 3 of Act 65 of 1963, section 6 of Act 58 of 1966, section 5 of Act 65 of 1968 and section 2 of Act 75 of 1970

- (a) By the substitution for subsection (1A) of the following subsection:

"(1A) Every management company, other than a management company, in property shares, shall include in every unit portfolio liquid assets with an aggregate market value of not less than five per centum of the aggregate market value of all the assets comprised in the unit portfolio or, if any other percentage, whether greater or smaller, is prescribed by regulation for the purpose of this subsection, the percentage so prescribed from time to time. Provided that the registrar may exempt a management company at the latter's request from the provisions of this subsection to such extent and for such period and on such conditions as he may determine."; and

- (b) by the insertion after the said subsection (1A) of the following subsection:

"(1B) A management company, which immediately prior to the commencement of the Financial Institutions Amendment Act, 1976, managed a unit trust scheme with a unit portfolio which included approved securities in terms of the provisions of this Act as they existed immediately prior to such commencement, shall not dispose of such securities otherwise than in accordance with a scheme approved by the registrar."

19. Section 20 of the Unit Trusts Control Act, 1947, is hereby amended—

Amendment of section 20 of Act 18 of 1947, as amended by section 18 of Act 11 of 1962.

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

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- “(c) an institution which is entitled to carry on business as a banking institution under the Banks Act, 1965 (Act No. 23 of 1965); or”; and
- (b) by the insertion after the said paragraph (c) of the following paragraph:
- “(d) an institution which is registered as a domestic insurer under the Insurance Act, 1943 (Act No. 27 of 1943).”.

20. The following section is hereby substituted for section 35 of the Unit Trusts Control Act, 1947:

Substitution of section 35 of Act 18 of 1947, as substituted by section 10 of Act 65 of 1968.

35. Sections 7, 8ter, 9, 10bis, 11 (1), (2) and (3) (excluding subsection (1) (c)), 12, 13, 14, 16, 17, 18 (1), 19, 20, 21, 22 (excluding subsections (1) (f) and (2) (c)), 23, 24, 25, 26, and 27 shall *mutatis mutandis* and in so far as they can be applied, apply to and in respect of a management company in property shares and a trustee under a unit trust scheme in property shares, and in the application thereof a reference therein to amortization of wasting assets shall be construed as a reference to depreciation of assets.”.

21. Section 1 of the Pension Funds Act, 1956, is hereby amended—

Amendment of section 1 of Act 24 of 1956.

- (a) by the insertion in subsection (1) after the definition of “court” of the following definition:

“dependant”, in relation to a member, means a person considered by the person managing the business of the fund concerned as being dependent on the member for maintenance and includes the spouse or a descendant of the member who in accordance with the rules of the fund may become entitled to a benefit;”;

- (b) by the substitution in the said subsection (1) for the definition of “member” of the following definition:

“member”, means, in relation to—

- (a) a fund referred to in paragraph (a) of the definition of ‘pension fund organization’, any member or former member of the association by which such fund has been established;

- (b) a fund referred to in paragraph (b) of that definition, a person who belongs or belonged to a class of persons for whose benefit that fund has been established,

but does not include any such member or former member or person who has received all the benefits which may be due to him from the fund and whose membership has thereafter been terminated in accordance with the rules of the fund;”;

- (c) by the substitution in the said subsection (1) for the definition of “pension fund organization” of the following definition:

“‘pension fund organization’ means—

- (a) any association of persons established with the object of providing annuities or lump sum payments for members or former members of such association upon their reaching their retirement dates, or for the dependants of such members or former members upon the death of such members or former members;
- or

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(b) any business carried on under a scheme or arrangement established with the object of providing annuities or lump sum payments for persons who belong or belonged to the class of persons for whose benefit that scheme or arrangement has been established, when they reach their retirement dates or for dependants of such persons upon the death of those persons,

and includes any such association or business which in addition to carrying on business in connection with any of the objects specified in paragraph (a) or (b) also carries on business in connection with any of the objects for which a friendly society may be established, as specified in section 2 of the Friendly Societies Act, 1956, or which is or may become liable for the payment of any benefits provided for in its rules, whether or not it continues to admit, or to collect contributions from or on behalf of, members;

(d) by the substitution in the said subsection (1) for the definition of "registrar" of the following definition:

"registrar" means the Registrar or the Deputy Registrar of Pension Funds appointed under section 3; and

(e) by the insertion in the said subsection (1) after the definition of "regulation" of the following definition:

"retirement date" means the date on which a member becomes entitled in terms of the rules of a fund to the grant of an annuity or the receipt of a lump sum payment on account of age, ill-health or retrenchment of staff;

22. Section 3 of the Pension Funds Act, 1956, is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 3 of Act 24 of 1956.

"(2) The Minister shall similarly appoint an officer to be styled the Deputy Registrar of Pension Funds to assist the registrar in carrying out his duties as aforesaid."

23. Section 19 of the Pension Funds Act, 1956, is hereby amended— Amendment of section 19 of Act 24 of 1956, as amended by section 13 of Act 80 of 1959, section 9 of Act 58 of 1966, section 1 of Act 80 of 1969, section 2 of Act 23 of 1970 and section 7 of Act 91 of 1972.

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

"(1) A registered fund shall, subject to the provisions of subsections (6) and (7), hold in the Republic assets equal in value to at least fifty per cent of the aggregate value of all the assets of the fund in one of more of the following classes of assets, namely—

(a) money in hand in the Republic;

(b) any amount standing to the credit of the fund concerned in an account or as a deposit (excluding a negotiable deposit) with an office in the Republic of a banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), or with a building society registered under the Building Societies Act, 1965 (Act No. 24 of 1965), or with the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949), or with the Post Office Savings Bank;

(c) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Government of the Republic or a provincial administration;

(d) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by or deposits with any local authority in the Republic authorized by law to levy rates upon immovable property;

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- (dA) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by a Bantu Affairs Administration Board established under the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971);
- (e) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Rand Water Board or the Electricity Supply Commission;
- (f) deposits with, or debentures quoted on a stock exchange in the Republic issued by, the Land and Agricultural Bank of South Africa;
- (g) South African Reserve Bank stock;
- (h) bills, bonds or securities issued by or loans to an institution in the Republic, which the registrar has approved subject to such conditions as he may impose, and also bills, bonds or securities issued by or loans to such an institution which the registrar has likewise approved;
- (i) bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the registrar has approved subject to such conditions as he may impose, and also those issued by an institution in such an approved territory which the registrar has likewise approved.

Provided that a registered fund shall hold bills, bonds or securities issued by or loans to the Government of the Republic, in an amount of not less than twenty per cent of the aggregate value of all the assets of the fund.”;

- (b) by the substitution for subsection (5) of the following subsection:

“(5) A registered fund may, if its rules so provide—

- (a) grant a loan, secured by a first mortgage of immovable property, by way of investment of its funds, to a member to enable the member to—
 - (i) redeem a loan which was granted to the member by a person other than the fund against security of immovable property on which a dwelling has been erected which is occupied by the member or a dependant or dependants of the member; or
 - (ii) purchase a dwelling, or to purchase land and erect a dwelling on it, for occupation by the member or a dependant or dependants of the member; or
 - (iii) make additions or alterations to a dwelling occupied by the member or a dependant or dependants of the member:

Provided that such a loan shall in no case exceed seventy-five per cent of the market value of the hypothecated property, plus the amount the member concerned would have received on the date of the loan had he terminated his membership voluntarily on that date, or the said market value, whichever is the smaller; and

- (b) contribute to any other pension fund registered under this Act or any fund of any kind whatsoever which is conducted for the benefit of the employees of the said registered fund.”;
- (c) by the insertion after subsection (5) of the following subsections:

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“(5A) For the purposes of subsection (5) ‘market value’ means the price which would be obtained on a sale in the Republic between a willing seller and a willing purchaser (between whom there is no other direct or indirect connection), as estimated by a person appointed by the registered fund concerned for that purpose: Provided that where a transaction for the purchase of an immovable property (other than vacant land upon which a dwelling is in the course of erection or about to be erected) is pending and a purchase price has already been agreed upon, or where such an immovable property was acquired by purchase not more than six months before the date on which the estimate is made, the market value of the property shall not be fixed at an amount higher than the true purchase price of the property, as declared or to be declared by the parties concerned for transfer duty purposes, plus, in the last-mentioned case, one hundred rand.

(5B) Notwithstanding anything to the contrary contained in the rules of a registered fund, such a fund shall not, after the commencement of the Financial Institutions Amendment Act, 1976—

(a) grant a loan to a member, other than a loan contemplated in subsection (5); or

(b) grant a loan to, or invest in the shares of—

(i) a company controlled by an officer or a member of the fund or a director of a company which is an employer participating in the scheme or arrangement whereby the fund has been established; or

(ii) a subsidiary company or a controlled company (as defined in the Companies Act, 1973 (Act No. 61 of 1973)), of such a first-mentioned company.”

(d) by the substitution for paragraph (b) of subsection (6) of the following paragraph:

“(b) The provisions of the proviso to subsection (1) and of subsection (7) shall not apply to a registered fund established or conducted by a local authority which holds at least ninety per cent of the aggregate value of all its assets in one or more of the kinds of assets mentioned in paragraphs (c), (d), (dA) and (e) of the said subsection (1).”

(e) by the substitution for paragraph (b) of subsection (7) of the following paragraph:

“(b) the requirements of the proviso to subsection (1), such fund shall, until its assets satisfy the said requirements, hold at the end of each financial year, bills, bonds or securities issued by or loans to the Government of the Republic, having an aggregate value not less than—

(i) the amount prescribed in the said proviso, less

(ii) an amount which bears the same ratio to the amount by which twenty per cent of the aggregate value of all the assets of the fund on 31 December 1971, exceeded the aggregate value of the bills, bonds or securities issued by or loans to the Government of the Republic held by the fund on that date, as the period extending from the end of the financial year in question to 31 December 1981, bears to a period of ten years.”; and

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(f) by the addition of the following subsection:

“(8) With effect from 12 December 1974 it shall be deemed that of the value of a registered fund’s holding of units in a unit trust scheme as defined in the Unit Trusts Control Act, 1947 (Act No. 18 of 1947), amounts equal to such percentages, if any, as the registrar may from time to time determine, are held in—

- (a) assets of the classes referred to in subsection (1); and
- (b) bills, bonds or securities issued by or loans to the Government of the Republic.”.

24. The following sections are hereby inserted in the Pension Funds Act, 1956, after section 37:

Insertion of sections 37A, 37B and 37C in Act 24 of 1956.

“Pension benefits not transferable or executable:

37A. Save to the extent permitted by this Act, the Income Tax Act, 1962 (Act No. 58 of 1962), and the Maintenance Act, 1963 (Act No. 23 of 1963), no benefit provided for in the rules of a registered fund, or right to such benefit, or right in respect of contributions made by or on behalf of a member, shall, notwithstanding anything to the contrary contained in the rules of such a fund, be capable of being transferred or otherwise ceded, or of being pledged or hypothecated, or be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, or to the extent of not more than three thousand rand per annum, be capable of being taken into account in a determination of a judgment debtor’s financial position in terms of section 65 of the Magistrates’ Courts Act, 1944, and in the event of the beneficiary concerned attempting to transfer or otherwise cede, or to pledge or hypothecate, such benefit or right, the fund concerned may withhold, suspend or entirely discontinue payment thereof: Provided that the fund may pay any such benefit or any benefit in pursuance of such contributions or part thereof, to any one or more of the dependants of the beneficiary or to a guardian or trustee for the benefit of such dependant or dependants during such period as it may determine.

Effect of insolvency on pension benefits.

37B. If the estate of any person entitled to a benefit payable in terms of the rules of a registered pension fund (including an annuity purchased by the said fund from an insurer for that person) is sequestrated or surrendered, such benefit shall not be deemed to form part of the assets in the insolvent estate of that person and may not in any way be attached or appropriated by the trustee in his insolvent estate or by his creditors, notwithstanding anything to the contrary in any law relating to insolvency.

How pension benefits to be dealt with on death of member.

37C. Notwithstanding anything to the contrary contained in any law or in the rules of a registered fund, any benefit payable by such a fund in respect of a deceased member, shall not form part of the assets in the estate of such a member but shall be paid to any one or more of the dependants of the member, if there is such a dependant or are such dependants, or to a guardian or trustee for the bene-

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fit of such dependant or dependants: Provided that if such dependant or dependants cannot be traced by the fund concerned within a period of six months after the death of the member, or if no claim is received by that fund from such dependant or dependants within the said period, the benefit may be paid over to the estate of the member.”

25. Section 1 of the Friendly Societies Act, 1956, is hereby amended by the substitution in subsection (1) for the definition of “registrar” of the following definition:

Amendment of section 1 of Act 25 of 1956.

“registrar” means the Registrar or the Deputy Registrar of Friendly Societies appointed under section 4;”

26. Section 4 of the Friendly Societies Act, 1956, is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 4 of Act 25 of 1956

“(2) The Minister shall similarly appoint an officer to be styled the Deputy Registrar of Friendly Societies to assist the registrar in carrying out his duties as aforesaid.”

27. Section 19 of the Friendly Societies Act, 1956, is hereby amended—

Amendment of section 19 of Act 25 of 1956.

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

“(1) No society shall insure the life of a child who is under the age of fourteen years for any sum of money which either alone or together with any amount which to the knowledge of the said society is payable on the death of that child by any other society or by any insurer carrying on insurance business within the meaning of the Insurance Act, exceeds—

(a) one hundred rand; if the child is under six years of age; or

(b) two hundred rand; if the child is six years old or older, but is under fourteen years of age.”; and

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

“(3) The provisions of this section shall not be construed so as to prohibit an insurance which provides for the payment, on the death of any child which is under the age of fourteen years, of a sum not exceeding in the aggregate all the contributions paid in respect of such insurance, plus interest on each contribution at a rate not exceeding seven and a half per cent per annum, compounded annually.”

28. Section 20 of the Friendly Societies Act, 1956, is hereby amended—

Amendment of section 20 of Act 25 of 1956, as amended by section 15 of Act 80 of 1959.

(a) by the substitution for subsection (2) of the following subsection:

“(2) Assets equal in value to at least forty per cent of the aggregate value of all the assets of a registered society shall, subject to the provisions of subsection (6), be held in the Republic in one or more of the following classes of assets, namely—

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- (a) money in hand in the Republic;
 - (b) any amount standing to the credit of the society concerned in an account or as a deposit (excluding a negotiable deposit) with an office in the Republic of a banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), or with a building society registered under the Building Societies Act, 1965 (Act No. 24 of 1965), or with the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949), or with the Post Office Savings Bank;
 - (c) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Government of the Republic or a provincial administration;
 - (d) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by or deposits with any local authority in the Republic authorized by law to levy rates upon immovable property;
 - (dA) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by a Bantu Affairs Administration Board established under the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971);
 - (e) bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Rand Water Board or the Electricity Supply Commission;
 - (f) deposits with, or debentures quoted on a stock exchange in the Republic and issued by, the Land and Agricultural Bank of South Africa;
 - (g) South African Reserve Bank stock;
 - (h) bills, bonds or securities issued by or loans to an institution in the Republic, which the registrar has approved subject to such conditions as he may impose, and also bills, bonds or securities issued by or loans to such an institution which the registrar has likewise approved;
 - (i) bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the registrar has approved subject to such conditions as he may impose, and also those issued by an institution in such an approved territory which the registrar has likewise approved.”;
- (b) by the substitution for subsection (3) of the following subsection:

“(3) For the purposes of subsection (2)—

- (a) the aggregate value of all the assets of a society shall not include the value of any policies of insurance issued by a person lawfully carrying on insurance business within the meaning of the Insurance Act;
- (b) it shall be deemed that of the value of a registered society's holding of units in a unit trust scheme as defined in the Unit Trusts Control Act, 1947 (Act

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No. 18 of 1947), an amount equal to such percentage, if any, as the Registrar may from time to time determine, is held in assets of the classes referred to in subsection (2)."; and

(c) by the substitution for subsection (6) of the following subsection:

"(6) The Minister may exempt either wholly or in part any society established or conducted by a religious institution from compliance with the provisions of subsection (2), and the registrar may, under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any society from compliance with any provision of subsection (2) or (5)."

29. The following section is hereby inserted in the Friendly Societies Act, 1956, after section 22:

Insertion of section 22A in Act 25 of 1956.

"Registrar may order submission of accounts and other documents in connection with control and administration of societies.

22A. (1) The registrar may by notice in writing direct any person carrying on the business of the control and administration of the affairs of a registered society to furnish him within a period stated in such notice, or within such further period as the registrar may allow, with—

- (a) a revenue account showing the income derived from and the expenses incurred in connection with such business;
 - (b) any other account, statement or other document relating to such business,
- and with such further information in connection with such business as he may require.

(2) The registrar may—

- (a) determine the period to which a revenue account, other account, statement or other document referred to in subsection (1) shall relate;
- (b) require that such revenue account, other account, statement or other document shall relate to the affairs of a particular registered society or to the affairs of all registered societies of which the affairs are controlled and administered by the said person;
- (c) require that such revenue account, other account, statement or other document shall be duly audited."

30. The following section is hereby inserted in the Friendly Societies Act, 1956, after section 43:

Insertion of section 43A in Act 25 of 1956.

"Registrar may impose limit on expenses of management and prescribe basis for calculation thereof.

43A. The registrar may from time to time impose a limit on the expenses of management which a registered society may incur during any financial year, and may from time to time prescribe the basis on which expenses of management shall during any financial year be calculated for that purpose."

31. Section 48 of the Friendly Societies Act, 1956, is hereby amended—

Amendment of section 48 of Act 25 of 1956.

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

"(g) contravenes the provisions of section 12 or 42, or fails to comply with a directive in terms of section 43A or exceeds a limit imposed in terms of that section,"; and

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- (b) by the substitution for subsection (2) of the following subsection:

“(2) Without derogation from the provisions of subsection (1), a person who has failed to make a return or to transmit or deposit a scheme, report, account, statement or other document within the time prescribed by or under this Act, may thereafter furnish such return or transmit or deposit such scheme, report, account, statement or other document subject to the payment of a penalty prescribed by regulation.”.

32. Section 1 of the Inspection of Financial Institutions Act, 1962, is hereby amended by the addition to the definition of “financial institution” of the words “or a person carrying on the business of the control and administration of the affairs of such a friendly society.”. Amendment of section 1 of Act 68 of 1962.

33. Section 3 of the Participation Bonds Act, 1964, is hereby amended by the substitution for paragraph (a) of the proviso to subsection (1) of the following paragraph: Amendment of section 3 of Act 48 of 1964, as amended by section 9 of Act 91 of 1972.

- “(a) if a participation is not granted within sixty days as from the date of acceptance of such money or within such further period as the Registrar may allow in a particular case, the money shall be refunded to the person from whom it was accepted; and”.

34. Section 6 of the Participation Bonds Act, 1964, is hereby amended— Amendment of section 6 of Act 48 of 1964, as amended by section 2 of Act 98 of 1967 and section 10 of Act 91 of 1972.

- (a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) Such a holder shall not be entitled to enforce his right to repayment of the principal debt secured by the bond unless—

- (i) the mortgagor fails to comply with the conditions of the bond; or

(ii) subject to the terms and conditions of the bond, he, together with any other such holders who, together with him, hold a majority in value of the participations in the bond, instruct the manager in writing to recover from the mortgagor such portion of the principal debt as is necessary to repay in full his participation and the participations of such other holders or, such an instruction having been given, the manager fails to comply therewith within six months of the date of receipt thereof: Provided that in a case where the right to such repayment was acquired on or after the date of commencement of the Financial Institutions Amendment Act, 1972, a holder shall not be entitled to take part in so instructing the manager before the period of five years in question referred to in paragraph (b) (ii) of the proviso to section 3 (1) or in section 3 (3) (d), as the case may be, has elapsed.”; and

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(b) by the substitution for subsection (6) of the following subsection:

“(6) A participant shall have the right to transfer, cede or encumber his rights in a participation bond without the consent of the mortgagor, provided—

(a) he has obtained the prior written consent of the manager to such transfer, cession or encumbrance; and

(b) in the case of any such transfer or cession—

(i) he acquired his rights in such participation bond before the date of commencement of the Financial Institutions Amendment Act, 1972; or

(ii) where he acquired his rights in such participation bond on or after the date of commencement of the Financial Institutions Amendment Act, 1972, the amount of money which is due to him in terms of the participation by which the said rights are conferred, had been invested in his name in the scheme up to the date of transfer or cession and for a continuous period of not less than five years; or

(iii) the registrar approves such transfer or cession.”

35. The following section is hereby inserted in the Participation Bonds Act, 1964, after section 8:—

Insertion of section 8A in Act 48 of 1964.

8A. (1) Two or more nominee companies shall not amalgamate, nor shall any rights of any such company under any participation bond registered in its name be ceded or transferred to or taken over by any other nominee company, except with the prior written consent of and on the conditions prescribed by the Registrar, and no such consent shall be given by the Registrar unless he is satisfied that the transaction in question will not be detrimental to the participants in the bond in question.

(2) Upon the coming into effect of a transaction such as is referred to in subsection (1)—

(a) in the case of an amalgamation, all the rights and obligations of an amalgamating nominee company in terms of the participation bonds registered in its name, or, in the case of a cession or transfer of rights in terms of any participation bond, all the rights and obligations of the nominee company by which the cession or transfer is given, shall vest in and become binding upon the new nominee company or, as the case may be, the nominee company taking over such rights and obligations in terms of such bonds;

(b) in the case of an amalgamation, the new nominee company or, in the case of a cession or transfer of rights and obligations in terms of any participation bonds, the nominee company taking over such rights and obligations, shall have the same rights and be subject to

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the same obligations as were immediately before the amalgamation, cession or transfer vested in or binding upon the amalgamating nominee companies or, as the case may be, the nominee company by which such cession or transfer has been effected;

- (c) all agreements, transactions and documents made, entered into, drawn up or executed in respect of a scheme by, with or in favour of an amalgamating nominee company or, as the case may be, the nominee company by which the cession or transfer has been given, and in force immediately prior to the amalgamation, cession or transfer, shall remain of full force and effect and shall be construed for all purposes as if they had been made, entered into, drawn up or executed by, with or in favour of the new nominee company or, as the case may be, the nominee company taking over the rights under the participation bond.

(3) The provisions of subsection (2) shall apply *mutatis mutandis* to—

- (a) any collateral security accepted by a manager for a debt secured in terms of a participation bond registered in the name of an amalgamating nominee company or, as the case may be, in the name of the nominee company ceding or transferring its rights in terms of a participation bond and which was in force immediately prior to the amalgamation, cession or transfer;
- (b) any cash which immediately prior to the amalgamation, cession or transfer was held on deposit in terms of section 9 (4A) in the name of an amalgamating nominee company or, as the case may be, in the name of the nominee company ceding or transferring its rights in terms of a participation bond; and
- (c) the agreement referred to in paragraph (c) of the definition of nominee company in section 1.

(4) The officer in charge of a deeds registry in which is registered any participation bond in favour of any nominee company which has amalgamated with any other nominee company or, as the case may be, which has ceded or transferred all its rights in terms of that participation bond to any other nominee company shall, upon production of the written consent of the Registrar to the registration of the amalgamation, cession or transfer, and upon production to him by the nominee company concerned of such bond, and without payment of stamp duty or registration fees or charges, make such endorsements upon such bond and such entries in his registers as are necessary to record the cession or transfer thereof, and of any rights thereunder to the new nominee company or, as the case may be, the nominee company which has so taken over the said rights.

(5) An amalgamation of nominee companies or a cession or transfer of rights under a participation bond in terms of this section shall not affect the rights of a participant in a participation bond registered in the name of any of the nominee companies concerned, or alter the conditions on which a participation was granted: Provided that

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nothing in this subsection contained shall prohibit a manager from altering the rules of the scheme, as applicable to any particular participation bond, with the consent in writing of all the participants therein and of the Registrar."

36. Section 9 of the Participation Bonds Act, 1964, is hereby amended by the substitution for subsection (5) of the following subsection:

Amendment of section 9 of Act 48 of 1964, as amended by section 3 of Act 98 of 1967 and section 11 of Act 91 of 1972.

"(5) The rules of the scheme as applicable to any particular participation bond may not be altered without the consent in writing of all the participants therein and the manager: Provided that if the registrar is satisfied that an alteration of such rules will not prejudice the interests of participants and does not alter a fundamental provision of such rules and does not operate to release the manager or the nominee company or the mortgagor from any responsibility to participants, or that the alteration is necessary to enable such rules to comply with the provisions of this Act, he may direct that such consent be dispensed with."

37. Section 1 of the Banks Act, 1965, is hereby amended—
(a) by the insertion in subsection (1)—

Amendment of section 1 of Act 23 of 1965, as amended by section 12 of Act 91 of 1972.

(i) before the definition of "banking institution" of the following definitions:

"associate", in connection with a person, means the controlling company (if any) or a subsidiary company of that person, a subsidiary company of any of the said companies, a controlling shareholder of that person or such a shareholder of his controlling company, and a business partner of that person, and, in connection with a company, includes any director or officer of such company;

"bank controlling company" means, subject to the provisions of subsection (2B), a company, excluding a banking institution registered under this Act, which can directly or indirectly control a banking institution, and "controlled" and "controlling" have corresponding meanings;

(ii) after the definition of "commercial bank" of the following definition:

"controlling company", in relation to a banking institution, means a bank controlling company and a controlling banking institution";

(iii) after the definition of "discount house" of the following definitions:

"domestic company" means a company which has been incorporated in the Republic, in which residents of the Republic directly or indirectly hold shares which in the aggregate are equal to at least fifty per cent of all the issued shares in the company, and which is not controlled by persons who are not residents of the Republic;

"domestic shareholder" means a shareholder who is:

- (a) a resident of the Republic;
- (b) a domestic company;
- (c) a pension fund registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), excluding a pension fund where the head office of the association which

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carries on the business of such fund or of every employer who is a party to such fund, is outside the Republic;

(d) a friendly society registered in terms of the Friendly Societies Act, 1956 (Act No. 25 of 1956);

(e) a society incorporated in the Republic and which is a mutual insurer as defined in the Insurance Act, 1943 (Act No. 27 of 1943);

(f) any person approved by the registrar as a domestic shareholder;

and 'domestic shareholding' has a corresponding meaning;

'financial company' means—

(a) a domestic company the business of which consists mainly of the making of investments and which the registrar with due regard to its spread of shares and its control, has approved in writing;

(b) an insurer registered under the Insurance Act, 1943 (Act No. 27 of 1943), and which in terms of that Act is a domestic insurer, or the controlling company (if any) of such insurer if it is incorporated in the Republic and mainly conducts insurance business which has been approved, in writing, by the registrar subject to such conditions as he may determine;

'foreign shareholder' means any shareholder other than a domestic shareholder, and 'foreign shareholding' has a corresponding meaning;";

(iv) after the definition of "Reserve Bank" of the following definition:

"'resident of the Republic' means a person resident in the Republic and who is a South African citizen or is in possession of a permit for permanent residence in the Republic, issued in terms of the Aliens Act, 1937 (Act No. 1 of 1937);";

(v) after the definition of "short-term liability" of the following definition:

"'subsidiary company' means a company in respect of which any other juristic person can directly or indirectly exercise control in the manner contemplated in the definition of 'bank controlling company';";

(b) by the substitution in the said subsection (1)—

(i) for paragraph (j) of the definition of "liquid assets" of the following paragraph:

"(j) debentures or notes issued by the Industrial Development Corporation of South Africa, Limited, in connection with a scheme for financing the export of capital goods and which have a maturity of not more than three years;";

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(ii) for paragraph (e) of the definition of "prescribed investments" of the following paragraph:

"(e) debentures of the Land Bank, other than such debentures mentioned in the definition of 'liquid assets';";

(iii) for the definition of "unimpaired reserve funds" of the following definition:

"unimpaired reserve funds" means all funds (other than a fund mentioned in section 45 and any fund required to be maintained in terms of any other law) which have been built up out of actual earnings, recoveries, premiums on shares or profits resulting from the realization of capital assets and have been set aside as a general or special reserve and are disclosed as such in the financial statements of the institution concerned, and are available for the purpose of meeting liabilities to the public under this Act.;

(c) by the insertion in the said subsection (1)—

(i) after paragraph (e) of the definition of "prescribed investments" of the following paragraph:

"(eA) bills, bonds or securities issued by or loans made to a Bantu Affairs Administration Board established in terms of the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971).";

(ii) after paragraph (f) of the definition of "prescribed investments" of the word "and" and the following paragraph:

"(g) bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the Registrar may by notice in the *Gazette* approve for purposes of this definition subject to such conditions as he may specify in such notice, and also those issued by an institution in such approved territory which he may likewise approve.;"

(d) by the substitution for subsections (2), (2A) and (4) of the following subsections:

"(2) A person shall for the purposes of this Act be deemed to be carrying on the business of a banking institution if he—

(a) carries on the business of accepting deposits; or

(b) obtains money from the general public in a manner which the Registrar, after consultation with the Governor of the Reserve Bank, has by notice in the *Gazette* declared to be a manner of obtaining money for the purpose of the carrying on of the business of a banking institution, and uses any money so obtained to grant money loans or credit (other than customary credit in respect of the sale of goods or provision of services by him) to the general public or to conduct leasing or factoring business.

(2A) A person shall for the purposes of this Act be deemed to be carrying on the business of accepting deposits—

(a) if in the opinion of the Registrar he accepts, as a regular feature of his business, deposits from the general public; or

(b) if he solicits or advertises for such deposits; notwithstanding that such deposits are limited to fixed amounts or that certificates or other instruments

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are issued in respect of any such amounts providing for the repayment to the holder thereof, either conditionally or unconditionally, of the amounts of the deposits at specified or unspecified dates or for the payment of interest on the amounts deposited at specified intervals or otherwise, or that such certificates are transferable: Provided that—

- (i) employees, in relation to the person by whom they are employed, shall be deemed to constitute part of the general public;
- (ii) deposits shall be deemed to include loans entered into—
 - (aa) without security; or
 - (bb) against security of bills, promissory notes, hire purchase contracts, leasing contracts or similar commercial paper; or
 - (cc) against security other than that mentioned in subparagraph (bb) and which in the opinion of the Registrar is insufficient or otherwise unsatisfactory;
- (iii) a person (including a co-operative society) other than a person who solicits or advertises for deposits, shall not be deemed to be carrying on the business of accepting deposits if he does not at any time hold deposits from more than twenty persons or deposits amounting in the aggregate to more than five hundred thousand rand;
- (iv) a person and any person controlled directly or indirectly by him (whether such control is by shareholding or otherwise) or administered by him and a subsidiary of such last-mentioned person, who accepts deposits shall for purposes of paragraph (iii) be deemed to be one person;
- (v) a co-operative society shall not be deemed to be carrying on such business by reason only of the fact that it borrows money from its members in accordance with the provisions of subsection (3);
- (vi) the acceptance of money against debentures issued in accordance with the provisions of the Companies Act, 1973 (Act No. 61 of 1973), shall not be deemed to be the business of accepting deposits if the money is not being used for granting money loans or credit (other than customary credit in respect of the sale of goods or provision of services by the issuer of the debentures) to the general public or for conducting the business of leasing or factoring.

(2B) In particular and without prejudice to the generality of the meaning of 'control' in the definition of 'bank controlling company' in subsection (1), a company shall be deemed to control a banking institution if—

- (a) it, together with its associates, holds shares in the banking institution of which the total nominal value represents more than fifty per cent of the nominal value of all the issued shares of the banking institution, except where, in such a case, the company and its associates, on account of limitations on the voting rights attached to shares cannot exercise control over the banking institution; or
- (b) it is entitled to exercise directly or indirectly more than fifty per cent of the voting rights in respect of the issued shares of that banking institution; or

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(c) it is entitled or has the power directly or indirectly to determine the appointment of the majority of the directors of that banking institution, including—

(i) the power to appoint or remove, without the consent or concurrence of any other person, all or the majority of such directors;

(ii) the power to prevent any person from being appointed a director without its consent;

and if a person's appointment as a director of the banking institution follows necessarily from his appointment as a director of that company, the first-mentioned appointment shall for the purposes of this subsection be deemed to be an appointment by virtue of a power of that company.

(4) If a person other than a registered banking institution prior to the commencement of the Financial Institutions Amendment Act, 1976, obtained money, whether against the issue of debentures or otherwise, and such obtaining of money is in terms of subsection (2A) deemed to be the acceptance of deposits as a business, he may be permitted by the Registrar to continue to carry on such business on the conditions and for the period determined by the Registrar: Provided that the Registrar shall not allow such person to obtain any money for financing additional business.”;

(e) by the substitution for paragraph (f) of subsection (6) of the following paragraph:

“(f) after the commencement of the Financial Institutions Amendment Act, 1972, the institution directly or indirectly undertakes or undertook to guarantee the repayment of a loan or a deposit which a person in the Republic (other than a banking institution, the Government of the Republic, a provincial administration, a local authority, a board established by or under an Act of Parliament, a juristic person which has been incorporated in terms of such an Act with the object of performing any functions in the public interest, and a subsidiary of any such juristic person) makes to or with another person in the Republic (other than a banking institution);”;

(f) by the addition of the following subsection:

“(7) The Registrar may in writing notify a banking institution that a specified practice or method of conducting business is an ‘irregular or undesirable practice’ or an ‘undesirable method of conducting businesses’ and may by notice in the *Gazette* declare a specified practice or method of conducting business an ‘irregular or undesirable practice’ or an ‘undesirable method of conducting business’ for a specified class or specified classes of banking institution or for all banking institutions, and a banking institution which employs such a practice or method of conducting business which by virtue of any such notice is irregular

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or undesirable for him after the expiry of twenty-one days from the date of the said written notice or the date of the said notice in the *Gazette*, as the case may be, shall be guilty of an offence."

38. Section 2 of the Banks Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 2 of Act 23 of 1965.

"(1) This Act shall not apply to the Post Office Savings Bank or the Land Bank or the Reserve Bank or the Industrial Development Corporation of South Africa, Limited, or the National Finance Corporation or the Public Debt Commissioners, or to any local authority or any building society or any Bantu co-operative credit society registered under any proclamation issued under Act No. 29 of 1897 of the Cape of Good Hope or under the Bantu Administration Act, 1927 (Act No. 38 of 1927), or an institution having as its main objective the financing of the development of certain regions and which has been approved by the Minister and complies with conditions which the Minister may from time to time deem necessary and of which the institution has been notified in writing: Provided that such exemption shall not apply to any savings department or savings bank or similar deposit-receiving institution established by or in connection with any local authority."

39. Section 7 of the Banks Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 7 of Act 23 of 1965.

"(1) No person shall carry on the business of a banking institution unless that person has been registered or provisionally registered as a banking institution of a particular class."

40. Section 9 of the Banks Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 9 of Act 23 of 1965.

"(1) A person holding money which he has obtained by carrying on the business of a banking institution without being registered or provisionally registered as required by this Act or any law repealed by this Act, shall repay such money in accordance with the Registrar's directions."

41. Section 10 of the Banks Act, 1965, is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph: Amendment of section 10 of Act 23 of 1965.

"(a) If the Registrar has registered a banking institution on the strength of any false or incorrect statement, or if a banking institution or any person carrying on the business of a banking institution has been convicted of any offence under this Act or any law repealed by this Act, or if any banking institution does not carry on satisfactorily the business of a banking institution of the class in which the institution in question is registered, or if any banking institution misrepresents the facilities which it offers to its members or to the public, or if any banking institution continues with a practice or method of doing business which in terms of section 1 (7) has been declared an irregular or undesirable practice or method of doing business, the Registrar may apply to the competent division of the Supreme Court of South Africa for an order cancelling or suspending the registration of the said institution, and the said division may thereupon entertain the application and make such order thereon as it deems

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(desirable to make: Provided that if any person has been convicted of fraud or *falsitas* under subsection (1) because he made a false statement on the strength whereof the banking institution was registered as aforesaid, the Registrar may himself, with the consent of the Minister, cancel the registration or suspend it on such conditions as he may deem fit to impose.”.

42. The following sections are hereby inserted in the Banks Act, 1965, after section 12:

Insertion of sections 12A and 12B in Act 23 of 1965.

“Regis-
tration of
bank con-
trolling
company.”

12A. (1) No person shall without the prior written approval of the registrar acquire control over a banking institution, and, subject to the provisions of subsection (6), a person, other than a registered banking institution, shall not acquire control over a banking institution unless he is registered as a bank controlling company.

(2) A person, other than a registered banking institution, who at the commencement of the Financial Institutions Amendment Act, 1976, controls a banking institution, or who, together with his associates at the said commencement, holds shares in a banking institution of which the total nominal value represents more than thirty per cent of the nominal value of all the issued shares of that banking institution, shall in the manner and within the period prescribed by regulation apply to the registrar for registration as a bank controlling company.

(3) If an applicant referred to in subsection (2) complies with the requirements mentioned in subsection (7), the registrar shall register him as a bank controlling company, and if he does not comply with those requirements but will possibly be able to comply and intends taking the necessary steps to be able to comply therewith at a later stage, the registrar shall grant him an extension of time for the period and on the conditions determined by the registrar, and when he complies with the said requirements the registrar shall register him as a bank controlling company.

(4) Where a person referred to in subsection (2) does not comply with the requirements of subsection (7) at the commencement of the Financial Institutions Amendment Act, 1976, no further shares in the banking institution may be registered in his name or that of his associates unless the registrar is satisfied that such person will be able to comply with the requirements of subsection (7) within a period acceptable to the registrar and the registrar has in writing approved the registration of additional shares in the name of the said person or his associates or unless the limitations contemplated in section 28D (1) or 28D (3), as the case may be, will not be exceeded.

(5) A person who intends to acquire control over a banking institution must obtain the written approval of the registrar, and unless such a person is a registered bank controlling company or banking institution or an institution mentioned in subsection (6), he must also apply to the registrar, in the manner prescribed by regulation, to be registered as a bank controlling company and submit with his application the information and documents prescribed by regulation.

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(6) The provisions of subsections (1), (2), (3) and (4) shall not apply to the Coloured Development Corporation, Limited, established by the Coloured Development Corporation Act, 1962 (Act No. 4 of 1962), or a similar corporation which has been established by Act of Parliament and has been approved by the registrar.

(7) If the registrar, when considering an application for the registration as a bank controlling company, is satisfied—

- (a) that the applicant has control of or is in a position to exercise or acquire control over one or more particular banking institutions;
- (b) that the applicant is a company registered or deemed to have been registered under the Companies Act, 1973 (Act No. 61 of 1973);
- (c) that the memorandum and articles of association of the applicant are not inconsistent with this Act and are not undesirable for any reason;
- (d) that the applicant does not propose to adopt undesirable methods and practices in conducting his business;
- (e) that the financial position of the applicant is sound;
- (f) that the total amount of the applicant's investments in—
 - (i) undertakings other than registered South African banking institutions, bank controlling companies and property companies of which the property is used mainly for bank purposes; and
 - (ii) fixed property which is not used mainly for bank purposes,
 does not together amount to more than forty per cent of the applicant's issued capital and reserves;
- (g) that, except in the case where the applicant is controlled by a foreign bank or banks, the shareholding in the applicant complies with the limitations prescribed by this Act in respect of the shareholding in bank controlling companies;
- (h) that the applicant neither directly nor indirectly has or will acquire control over more than one banking institution in any class of banking institution mentioned in section 1 (1); and
- (i) that in the case of a bank controlling company which controls a discount house, the applicant—
 - (i) controls no other banking institution;
 - (ii) complies with the limitation on shareholding in respect of discount houses as laid down in section 28D (3);
 - (iii) conducts only such other business as the registrar approves and to the extent which the registrar approves,

he shall, on payment by the applicant of a registration fee of ten rand, register the applicant as a bank controlling company and issue a certificate of registration to him.

(8) If an applicant for registration as a bank controlling company cannot be registered in accordance with subsection (7), the registrar shall in writing notify the applicant and also every banking institution involved, that the registration is not being granted.

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Cancellation of registration of bank controlling company. 12B. (1) If the registrar is satisfied that a company which is registered as a bank controlling company has ceased to control any banking institution, he shall—

- (a) at the request of the company, cancel its registration as a bank controlling company; and
- (b) if no request for cancellation of the registration is received by him, give written notice to the company that he intends to cancel the registration of the company as a bank controlling company at the expiry of a period (being not less than thirty days) mentioned in the notice unless the company can show cause why the registration should not be cancelled.

(2) The provisions of section 10 (3) (b), (c) and (d) shall apply *mutatis mutandis* to a cancellation of registration in terms of subsection (1) (b)."

43. The following section is hereby inserted in the Banks Act, 1965, after section 13:

Insertion of section 13A in Act 23 of 1965.

"Returns which bank controlling company must render to registrar." 13A. A registered bank controlling company shall submit to the registrar—

- (a) within a period of twenty-one days after its annual general meeting a copy of its annual accounts and the report by its auditors certified by its chief executive officer;
- (b) within such period as the registrar may determine, any additional returns or information which the registrar may in writing request the bank controlling company to furnish in order to enable him to determine whether the company is complying with the provisions of this

44. Section 14 of the Banks Act, 1965, is hereby amended by the substitution for the word "capital", wherever it appears, of the words "share capital".

Amendment of section 14 of Act 23 of 1965, as amended by section 3 of Act 23 of 1970.

45. Section 15 of the Banks Act, 1965, is hereby amended by the substitution for the word "capital" of the words "share capital".

Amendment of section 15 of Act 23 of 1965.

46. Section 17 of the Banks Act, 1965, is hereby amended—

Amendment of section 17 of Act 23 of 1965, as substituted by section 14 of Act 91 of 1972.

(a) by the substitution for paragraph (iv) of the proviso to subsection (1) of the following paragraph:

"(iv) the aggregate amount of—

- (aa) acceptances; and
- (bb) self-liquidating bills or promissory notes arising out of the movement of goods and discountable by the Reserve Bank, with a maturity not exceeding one hundred and twenty days or, in the case of agricultural bills, six months,

which rank as liquid assets, shall not exceed twenty per cent of the total amount of liquid assets to be maintained by a banking institution in terms of this subsection after deduction of the reserve balance referred to in section 16, without, however, any of the foregoing provisions of this paragraph prohibiting a banking institution from holding, for purposes other than minimum liquid

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assets, any such acceptances, bills or promissory notes in excess of the aggregate amount which may, in terms of the said foregoing provisions, be included in the required minimum liquid assets.”;

(b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) Whenever the Reserve Bank deems it desirable in the national economic interest that supplementary liquid assets be maintained by banking institutions, it may with the consent of the Treasury from time to time determine—

(i) that in respect of the institutions of a group determined in accordance with criteria laid down from time to time by the Reserve Bank and set out in the notices mentioned in paragraph (c), the percentages mentioned in paragraphs (a), (b) and (c) of subsection (1) shall be increased to not more than sixty, forty and ten respectively; or

(ii) that every institution of a particular group (referred to in subparagraph (i)), shall maintain, in addition to the liquid assets required by subsection (1), supplementary liquid assets in the Republic at least equal to—

(aa) a percentage prescribed by the Reserve Bank, but not exceeding—

(i) seventy per cent of the amount by which the short-term liabilities to the public;

(ii) fifty per cent of the amount by which the medium-term liabilities to the public; or

(iii) twenty per cent of the amount by which the long-term liabilities to the public;

payable by the institution in the Republic (as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of subsection (1) of section thirteen) exceed the amount of such liabilities as at a date determined by the Reserve Bank and stated by the Registrar in a notice in the *Gazette*; or

(bb) the sum of two or more amounts calculated in accordance with the provisions of subitems (aa) (i), (ii) and (iii); or

(iii) that every institution of a particular group shall maintain, in addition to the supplementary liquid assets required to be maintained in terms of subparagraph (i), supplementary liquid assets in terms of subparagraph (ii): Provided that for the purposes of this subparagraph the maximum percentage which the Reserve Bank may determine in terms of subparagraph (ii) in respect of a particular kind of liability, is reduced by the percentage by which the percentage referred to in subsection (1), in respect of the kind of liability concerned, has been increased in terms of subparagraph (i); and

(iv) that every institution of a particular group shall, in respect of supplementary liquid

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assets, maintain with the Reserve Bank in cash, or with the National Finance Corporation, an amount which is at least equal to a percentage, prescribed by the Reserve Bank, of the short-term liabilities or of the medium-term liabilities or of the short-term liabilities as well as of the medium-term liabilities of the institution to the public in the Republic: Provided that the limits set forth in subparagraphs (i), (ii) and (iii), as the case may be, shall not be exceeded by a determination in terms of this subparagraph.”; and

- (c) by the substitution for paragraph (c) of subsection (2) of the following paragraph:

“(c) Whenever the Reserve Bank has made a determination in terms of paragraph (a) or paragraphs (a) and (b), it shall inform the Registrar thereof in writing, and the Registrar shall as soon as practicable give written notice of the determination to every institution to which the determination applies, and cause the determination to be published in the *Gazette*.”.

47. The following section is hereby inserted in the Banks Act, 1965, after section 21:

Insertion of section 21A in Act 23 of 1965.

“Limitation on certain transactions of banking institutions.

21A. (1) The total amount of a banking institution's investment in fixed property, in loans and advances to subsidiaries of the banking institution of which the main object is the holding of fixed property and in shares (excluding redeemable preference shares but not preference shares which can be converted into ordinary shares), including shares in subsidiary companies of the banking institution, shall not exceed the banking institution's paid-up capital and unimpaired reserves: Provided that in the case where fixed property or an undertaking is bought in by a banking institution to protect an investment (including a loan or an advance) the amount of such an investment shall for a period of five years from the date of purchase not be taken into account for the purposes of this subsection.

(2) A banking institution and its associates shall not hold shares in a registered insurer of which the total nominal value exceeds an amount equal to thirty per cent of the nominal value of all the issued shares of that insurer.

(3) Where in any particular case at the commencement of the Financial Institutions Amendment Act, 1976, the ratio contemplated in subsection (2) is exceeded, the banking institution and its associates may retain the shares concerned but they shall not acquire any further shares in such insurer as long as the ratio mentioned in that subsection is exceeded.

(4) (a) The total amount owing to a banking institution in respect of loans and advances granted by it to members of its affiliated group, other than those to banking institutions in that group and those to subsidiaries of the banking institution mentioned in subsection (1), plus the total amount of the banking institution's investment in redeemable preference shares (excluding preference shares which can be con-

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verted into ordinary shares) issued by members of the said group shall not exceed an amount equal to five per cent of the banking institution's total liabilities to the public: Provided that the sum of the amount owing in respect of the loans and advances mentioned and the amount of the institution's investment in the redeemable preference shares mentioned may be reduced by the amount by which the total amount of the banking institution's paid-up capital and unimpaired reserves exceeds its investment in fixed property and in the shares mentioned in subsection (1).

(b) For the purposes of paragraph (a) 'affiliated group' includes the banking institution's controlling shareholders and those of its controlling company, its subsidiary companies, its controlling company, the said companies' subsidiary companies and a company or undertaking which is directly or indirectly controlled by any of the said persons or the banking institution.

(5) A banking institution shall furnish such particulars as may be prescribed by regulation, in respect of the redeemable preference shares and advances referred to in subsection (4), in the statement which the banking institution is required to furnish to the registrar in terms of section 13 (1) (b)."

48. The following sections are hereby inserted in the Banks Act, 1965, after section 27:

Insertion of sections 27A, 27B, 27C and 27D in Act 23 of 1965.

"Subsidiary of banking institution.

27A. A banking institution shall not establish or acquire a subsidiary company unless the prior written authority of the registrar has been obtained.

Disclosure of banking institution's interest in its subsidiary companies, and that of controlling company in banking institution.

27B: The Minister may by regulation prescribe that a banking institution shall furnish the particulars which the Minister determines, in respect of any investment of the banking institution in shares of its subsidiary companies and in respect of any investment in its shares by its controlling company, in the statement which the banking institution is required to furnish to the registrar in terms of section 13 (1) (b).

Limitation on banks under control of a controlling company.

27C. A banking institution or a registered bank controlling company shall not directly or indirectly control more than one banking institution in any class of banking institution mentioned in section 1 (1): Provided that a registered bank controlling company which controls a discount house shall not control any other banking institution: Provided further that a banking institution shall not control another banking institution of the same class as the first-mentioned institution.

Representative of foreign bank.

27D. A foreign bank shall not without the consent of the registrar have a representative in the Republic and shall furnish the registrar with the name of any such representative and the address of its representative's office in the Republic and shall notify the registrar of any change of representative and of that address."

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49. The following section is hereby substituted for section 28 of the Banks Act, 1965:

Substitution of section 28 of Act 23 of 1965

“Banking institutions and bank controlling companies may not issue or register certain types of shares.

28. (1) A banking institution or bank controlling company shall not issue bearer shares or shares without par value, and shall not issue preference shares without the written approval of the registrar and otherwise than on the conditions determined by him.

(2) A banking institution or bank controlling company shall not register shares in it in the name of a nominee except in the following cases:

(a) in the name of the trustee of a unit trust scheme registered in terms of the Unit Trusts Control Act, 1947 (Act No. 18 of 1947), or the nominee company of the said trustee which has been approved by the registrar of Unit Trust Companies;

(b) in the name of the executor, administrator, curator, trustee or guardian in respect of the estate of a deceased shareholder of the banking institution or bank controlling company or of a shareholder whose estate has been sequestrated or of a shareholder who is otherwise incapable of contracting, or the liquidator of a juristic person in the process of liquidation, which is a shareholder of the banking institution or bank controlling company;

(c) for a period of six months in the name of a stockbroker or of a company controlled by him or of a company controlled by a banking institution or of an officer of that banking institution, if it is necessary that the shares be transferred in order to facilitate delivery to the purchaser, or to protect the rights of the beneficial owner of the shares or where the beneficial owner of the shares is not known;

(d) where the registrar has approved such registration in writing.”

50. The following sections are hereby inserted in the Banks Act, 1965, after section 28:

Insertion of sections 28A, 28B, 28C, 28D, 28E and 28F in Act 23 of 1965.

“Information to be furnished by shareholders.

28A. A person in whose name shares in a banking institution or bank controlling company are registered or to be registered or a person acting on his behalf, shall at the request of the banking institution or bank controlling company concerned furnish such information as is necessary to determine for the purposes of sections 28 (2), 28D, 28E, 34 and 34A, whether the first-mentioned person is—

- (a) the beneficial shareholder;
- (b) a foreign shareholder;
- (c) an associate of any other shareholder of the banking institution or the bank controlling company, as the case may be.

Classification of shareholders.

28B. Where the total nominal value of shares in a banking institution or bank controlling company which are registered in the name of a particular person, together with that of any shares which are to be issued or transferred to him, if any, is less than twenty-five thousand rand or an amount which

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represents one per cent of the total nominal value of all the issued shares of the banking institution or bank controlling company, as the case may be, whichever is the smaller, the banking institution or bank controlling company may, for the purposes of sections 28D, 28E, 34 and 34A, accept, unless it is otherwise informed, that the person concerned—

- (a) if his recorded address is an address in the Republic, is not a foreign shareholder; and
- (b) is not an associate of any other shareholder of the banking institution or bank controlling company, as the case may be.

Bona fide
action not
punishable.

28C. Where a banking institution or bank controlling company or a director, officer, employee or agent of a banking institution or bank controlling company *bona fide* acts or fails to act, on the strength of information reasonably obtained, and thereby unknowingly contravenes a provision of section 28 (2), 28D, 28E, 34 or 34A, he shall not thereby be guilty of an offence, but no person shall, personally or by proxy, exercise the voting rights in respect of any share which was registered in conflict with the provisions of section 28 (2), 28D or 28E after the commencement of the Financial Institutions Amendment Act, 1976.

Limitation
of share-
holding in
a banking
institution
and bank
controlling
company.

28D. (1) Subject to the provisions of subsections (2) and (4) of this section and of sections 28B and 28E a banking institution (other than a discount house) or a bank controlling company shall not register shares in it in the name of a person other than a registered banking institution or a registered bank controlling company or a company approved by the registrar in terms of section 12A (4), except in so far as the total nominal value of the shares which are to be registered together with those which are already registered in the name of—

- (i) a financial company approved by the registrar in respect of such banking institution or bank controlling company for the purposes of this section, and its associates, does not exceed thirty per cent; and
- (ii) any other person and his associates does not exceed ten per cent,

of the total nominal value of all the issued shares in the banking institution or bank controlling company.

(2) The Minister may, in special cases where he is satisfied that it is desirable in the public interest, authorize a banking institution (other than a discount house) or bank controlling company in writing to exceed the percentages mentioned in subsection (1) in respect of domestic shareholders on the conditions and to the extent determined by the Minister.

(3) A discount house shall not register shares in it in the name of a person (other than a registered bank controlling company) and his associates of which the total nominal value exceeds ten per cent of the total nominal value of all the issued shares in the discount house.

(4) Shares which are transferred to the executor, administrator, curator, trustee or guardian in respect of the estate of a deceased shareholder of the banking

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institution or bank controlling company or of a shareholder whose estate has been sequestrated or of a shareholder who is otherwise incapable of contracting or the liquidator of a corporate body in the process of liquidation, which is a shareholder of the banking institution or bank controlling company, shall not be deemed to be registered in the name of the shareholder *nomine officii* but shall be deemed to be registered separately in the name of the various beneficiaries: Provided that, in the case where such a shareholder *nomine officii*, owing to the voting power attached to shares registered in his name, is able to control the banking institution or bank controlling company, the voting power which he can exercise in respect of all the shares under his control shall, notwithstanding anything to the contrary contained in any other law, be limited to ten per cent of the votes attached to all the issued shares of the banking institution or bank controlling company.

(5) Where at the commencement of the Financial Institutions Amendment Act, 1976, the total nominal value of shares in a banking institution (other than a discount house) or bank controlling company, registered in the name of a financial company and its associates or any other person and his associates, exceeds the relative percentage mentioned in subsection (1), the shares may, subject to the provisions of section 28E, remain so registered but, save with the approval of the Registrar, granted on such conditions as he deems necessary where he is satisfied—

(i) that the interests of the banking institution or bank controlling company will otherwise be detrimentally affected; and

(ii) that compliance with the limits referred to in subsection (1) will not be unduly delayed, no further shares in the banking institution or bank controlling company shall be registered in the name of that shareholder or his associates as long as the relative percentage is exceeded.

(6) If at the commencement of the Financial Institutions Amendment Act, 1976, the total nominal value of shares in a discount house, which is registered in the name of a person and his associates, exceeds the ratio referred to in subsection (3), no further shares shall be registered in the name of such person or that of his associates, and the discount house shall within six months from the date of the said commencement submit a scheme to the registrar whereby the shareholdings which exceed the limit mentioned in subsection (3) will be reduced within a period acceptable to the registrar to the extent that the required ratio will be complied with.

(7) The provisions of subsections (5) and (6) shall not be construed as meaning that as long as the relative ratio is exceeded, shares may not be transferred within a group of associates.

Limitation of shareholding by foreigners in a banking institution and bank controlling company.

28E. (1) Subject to the provisions of subsections (2), (5), (6), (7) and (8) a banking institution or a bank controlling company shall not register any shares in it—

(a) in the name of a foreign shareholder if the total nominal value of shares in that banking institution or bank controlling company registered in the name of that shareholder together with

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that of such shares registered in the name of associates of that shareholder, if any, exceeds ten per cent of the total nominal value of all the issued shares in that banking institution or bank controlling company;

(b) in the name of a foreign bank or its associate or in the name of a financial company which is directly or indirectly controlled by foreign shareholders or in the name of an associate of such a company, if the total nominal value of all the shares in the banking institution or bank controlling company registered in the name of foreign banks and that of their associates, plus those registered in the name of financial companies which are directly or indirectly controlled by foreign shareholders and in the name of their associates exceeds thirty per cent of the nominal value of all the issued shares of the banking institution or bank controlling company.

(2) The Minister may—

(a) notwithstanding the provisions of subsection 1 (a), in a particular case approve, on the conditions which he deems desirable, that shares in a banking institution (other than a discount house) of a total nominal value equal to not more than thirty per cent of the nominal value of all the issued shares of the banking institution be registered in the name of an approved financial company or approved financial companies directly or indirectly controlled by foreign shareholders, and of its or their associates, if the Minister is satisfied that it is desirable in the public interest and that it cannot lead to the domestic shareholders' losing control of the banking institution;

(b) notwithstanding the provisions of subsections (1), (3) and (6), in a particular case where he is satisfied that it is desirable in the public interest, approve, on the conditions which he determines, that shares in a banking institution (other than a discount house) or bank controlling company of a total nominal value equal to not more than fifty per cent (or, during such period as the Minister may determine, such higher percentage as he may approve) of the nominal value of all the issued shares of the banking institution or bank controlling company, as the case may be, be registered in the name of a foreign bank or foreign banks;

(c) notwithstanding the provisions of section 28 (2), in a case envisaged in paragraph (b), approve that the shares held by a foreign bank or foreign banks in a banking institution or bank controlling company be registered in the name of a foreign company if all the shares in such company are held by the said bank or banks and warranties to the satisfaction of the Minister are furnished to the effect that no shares in the said company will be alienated to any person other than a bank approved by the Minister or a domestic shareholder.

(3) If at the commencement of the Financial Institutions Amendment Act, 1976, in any particular

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case the percentage ratio mentioned in subsection (1) (a) or in subsection (1) (b) is exceeded, the shares may, subject to the provisions of subsections (5), (6) and (7), remain registered in the names of the relative shareholders, but in the case of the ratio mentioned in subsection (1) (a) being exceeded, the banking institution or bank controlling company shall not register any other shares in the name of the shareholder concerned or his associates as long as the said percentage of ten per cent or such higher percentage as may have been approved by the Minister in terms of subsection (2), or the percentage envisaged in subsection (6) or, subject to the provisions of a scheme in terms of subsection (5) or an undertaking in terms of subsection (9), the percentage of fifty per cent mentioned in those subsections, is exceeded, and in the case of the ratio mentioned in paragraph (b) of subsection (1) being exceeded, the banking institution or bank controlling company shall not register any shares in the name of any foreign bank or its associate or in the name of a financial company mentioned in that paragraph or its associate as long as the said percentage of thirty per cent is exceeded.

(4) The provisions of subsection (3) shall not be construed as meaning that as long as the relative ratio is being exceeded, shares may not be transferred within the group of associates.

(5) If at the commencement of the Financial Institutions Amendment Act, 1976, shares in a banking institution or bank controlling company are registered in the name of a foreign bank or banks the total nominal value of which, together with that of shares registered in the names of associates of such bank or banks, exceeds fifty per cent of the total nominal value of the issued shares of the banking institution or the bank controlling company, as the case may be, the banking institution or bank controlling company shall within one year after the said commencement furnish the Minister—

(a) with a scheme setting out the steps which are contemplated to reduce within a period acceptable to the Minister, the shareholding of the foreign bank or banks and its or their associates in the banking institution or bank controlling company, to a total nominal value equal to not more than fifty per cent of the total nominal value of all the issued shares in the banking institution or bank controlling company; and

(b) with an undertaking that all shares issued or transferred with a view to attaining the shareholding limit of fifty per cent mentioned in paragraph (a), shall be registered in the names of domestic shareholders.

(6) If at the commencement of the Financial Institutions Amendment Act, 1976, shares in a banking institution or bank controlling company are registered in the name of a foreign bank or banks of which the total nominal value together with that of shares registered in the names of the associates of the said bank or banks, exceeds the limit mentioned in subsection (1) (a) but is less than fifty per cent of the total nominal value of the issued shares of the banking institution or the bank

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controlling company, as the case may be, no shares shall be registered in the name of that foreign bank or banks or in that of its or their associates, if such registration will result in the ratio of the total nominal value of the shares registered in the said names to the total nominal value of all the issued shares of the banking institution or the bank controlling company exceeding that ratio as at the date of the said commencement.

(7) Where in the case of a banking institution or bank controlling company contemplated in subsection (5) the aggregate shareholding of the foreign bank or banks and its or their associates has been reduced to the limit of fifty per cent envisaged in that subsection and those shareholders alienate further shares, and also where the foreign bank or banks mentioned in subsection (2) (b), subsection (6) or subsection (8), or its or their associates or the company mentioned in subsection (2) (c) alienate any of their shares in the banking institution or bank controlling company, the banking institution or bank controlling company shall not transfer those shares into the name of any person other than a domestic shareholder or a foreign bank approved by the Minister, until the limit mentioned in subsection (1) (a) is attained.

(8) The provisions of subsection (5) shall not apply to a banking institution or bank controlling company contemplated in that subsection if the total amount of the issued share capital together with the amount of the reserves of the banking institution or bank controlling company is less than twenty million rand, and in such a case further shares issued by the banking institution or bank controlling company may be registered in the name of the foreign bank or banks and its or their associates until the total amount of the issued capital and reserves reaches the amount mentioned, whereupon all further shares issued shall be registered in the names of domestic shareholders until the total nominal value of all the shares held by the foreign bank or banks and its or their associates does not exceed fifty per cent of the nominal value of all the issued shares of the banking institution or bank controlling company, as the case may be.

(9) Notwithstanding the provisions of subsection (5) the Minister may exempt a banking institution or bank controlling company which in terms of that subsection is required to submit a scheme, from that requirement if the banking institution or bank controlling company furnishes a written undertaking, which is acceptable to the Minister, to the effect that the banking institution or the bank controlling company and the shareholder or shareholders concerned accept the principle of the reduction of the foreign shareholding as provided for in subsection (5) and will take the necessary steps to ensure that the ratio of fifty per cent mentioned in subsection (5) will be complied with within a period which is acceptable to the Minister.

Adjustment
of register
of members.

28F. A banking institution shall within six months after the commencement of the Financial Institutions Amendment Act, 1976, adjust its register of members so as to enable it to comply with the provisions of sections 28 (2), 28D, 28E, 34 and 34A."

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51. The following section is hereby substituted for section 29 of the Banks Act, 1965:

Substitution of section 29 of Act 23 of 1965.

“Limitation on certain activities of banking institutions.” 29. (1) A commercial bank shall not carry on any business in the Republic through a person who is not its full-time servant: Provided that such a bank may raise deposits through an agent and pay commission to such agent in respect thereof:

(2) A banking institution other than a commercial bank shall not without the written approval of the Registrar accept deposits of money withdrawable by cheque unless it offered that facility prior to 1 January 1975.”

52. Section 34 of the Banks Act, 1965, is hereby amended by the substitution for subsection (5) of the following subsection:

Amendment of section 34 of Act 23 of 1965.

“(5) A banking institution (other than a banking institution which has no share capital), shall, within a period of ninety days as from the date of its registration or provisional registration under this Act, and thereafter within a period of ninety days as from the first day of every financial year of the institution or as from such other date as the Registrar may in terms of paragraph (a) determine, furnish the Registrar with a list, certified as correct by the institution's chief executive officer in the Republic, wherein, under separate sections for domestic and foreign shareholders and indicating the total nominal value of the shares in each of the sections, are set forth—

(a) the names in alphabetical order (but with shareholders which are associates of one another grouped together) and the addresses of the shareholders or members of the institution, as at the end of the institution's last preceding financial year or as on such other date as the Registrar may at the request of the banking institution determine, or as on the date of the institution's registration or provisional registration under this Act if on the day when the list is furnished as aforesaid the institution has not completed its first financial year;

(b) the number of shares, the nominal value of the shares and the percentage it represents of the total nominal value of all the issued shares of the institution, or any other interest in the institution held by every such shareholder or member, and the amount which he has paid up thereon on the date to which the list relates;

(c) in the case of domestic shareholders, whether the shareholder is a registered banking institution, a registered bank, controlling company, a financial company or other person, and, in the case of foreign shareholders, whether the shareholder is a bank or a financial company or other person:

Provided that an institution shall be deemed to have complied with the provisions of this subsection in respect of any domestic shareholder or member holding less than one per cent of the institution's subscribed capital, and in respect of a foreign shareholder or member who holds shares in the institution of which the nominal value is less than twenty-five thousand rand or an amount representing one per cent of the nominal value of all the issued shares of the institution, whichever is the smaller, if the number of such shareholders or members is set forth in the list in question.”

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53. The following section is hereby inserted in the Banks Act, 1965, after section 34:

Insertion of section 34A in Act 23 of 1965.

“Lists of directors and shareholders of bank controlling company to be furnished to registrar.”

34A. A registered bank controlling company shall within a period of ninety days as from its registration and thereafter within a period of ninety days as from the first day of every financial year of the company furnish the registrar with such lists as are referred to in subsections (1) and (5) of section 34, certified in the manner indicated in those subsections.”

54. Section 1 of the Building Societies Act, 1965, is hereby amended by the deletion of the word “and” at the end of paragraph (i) of the definition of “prescribed investments” and the substitution for paragraph (j) of that definition of the following paragraphs:

Amendment of section 1 of Act 24 of 1965, as amended by section 1 of Act 64 of 1968 and section 5 of Act 67 of 1973.

- “(j) bills, bonds or securities issued by or loans to a Bantu Affairs Administration Board established in terms of the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971);
- (k) such bills, bonds or securities as the registrar may by notice in the *Gazette* approve for the purposes of this definition subject to such conditions as he may specify in such notice, and bills, bonds or securities issued by an institution which he may likewise approve; and
- (l) bills, bonds or securities issued by the government of or a local authority in a territory other than the Republic which the registrar may by notice in the *Gazette* approve for purposes of this definition subject to such conditions as he may specify in such notice, and also those issued by an institution in such approved territory which he may likewise approve;”.

55. Section 37 of the Building Societies Act, 1965, is hereby amended by the substitution for subsection (5A) of the following subsection:

Amendment of section 37 of Act 24 of 1965, as amended by section 9 of Act 23 of 1970.

“(5A) Where a society issued a fixed period share on or after 5 August 1969 with the specific undertaking that the dividend rate during the full currency of the share will remain unaltered, the provisions of subsections (2) and (5) shall not apply: Provided that—

- (a) such a share shall not be redeemed by the society before the expiry of the period of issue except in the circumstances set forth in paragraph (a), (c), (d), (e) or (f) of the second proviso to section 28 (6); and
- (b) a society shall not grant a loan against the security of such a share.”.

56. Section 67 of the Building Societies Act, 1965, is hereby amended by the substitution for subsection (3) of the following subsection:

Amendment of section 67 of Act 24 of 1965, as amended by section 14 of Act 64 of 1968.

“(3) The board or the main auditors acting with the consent of the board may appoint a branch auditor to any branch of the society who shall retire at the conclusion of the society’s first annual general meeting following his appointment unless previously removed from office by a resolution of the members of the society at a general meeting or unless he is re-appointed.”.

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57. (1) This Act shall be called the Financial Institutions Amendment Act, 1976. Short title and commencement.

(2) The provisions of section 5 (b), (c) and (d) shall be deemed to have come into operation on 31 December 1974, those of sections 18 and 20 on 1 October 1975, those of section 34 (b) on 1 November 1975, and those of section 55 on 1 July 1975.

(3) The other provisions of this Act shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(4) Different dates may in terms of subsection (3) be fixed in respect of different such provisions.