

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.

*EXTRAORDINARY*



*BUITENGEWONE*

REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

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KAAPSTAD, 26 JUNIE 1968.

[No. 2107.

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DEPARTMENT OF THE PRIME MINISTER.

No. 1120.]

[26th June, 1968.

It is hereby notified that the State President has assented to the following Acts which are hereby published for general information.

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No. 64 of 1968: Building Societies Amendment Act,  
1968 .. .. . 99

No. 64, 1968.]

## ACT

To amend the Building Societies Act, 1965, so as to permit the appointment of certain officers of societies as directors; to enable societies in certain circumstances to exercise their powers outside the Republic; to extend the powers of societies in relation to certain immovable property, the business of insurance companies, the provision of pensions or gratuities for employees of a subsidiary or associated company, the granting of loans to employees and the establishment of insurance companies; to increase the maximum limit for fixed deposits and subscription shares; to permit the repayment of shares to insolvent or deceased estates; to extend the forms of security in which societies may invest; to permit societies to maintain liquid assets in respect of subscription shares at an average percentage; to provide for the establishment of a general reserve by societies; to extend the power of societies in relation to the repayment of certain advances and the conversion of fixed term mortgages into reducible mortgages; to enable societies to grant higher advances on the security of mortgages of immovable property; further to regulate the appointment of an auditor should a change in the composition of a partnership occur; to empower the registrar to request societies to discontinue the publication or issue of certain documents; to abolish the prescribed application form for a licence; and to provide for matters incidental thereto.

*(English text signed by the State President.)*  
*(Assented to 17th June, 1968.)*

**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 Building Societies Act, 1965 (hereinafter referred to as the principal Act), is hereby amended— Amendment of section 1 of Act 24 of 1965.

(a) by the insertion after the definition of "discount house" of the following new definition:

"‘executive officer’ in relation to a society means a manager, a deputy manager or an assistant manager of such society;"; and

(b) by the insertion after the definition of "Gazette" of the following new definition:

"‘general reserve’ means the reserve referred to in section 36;".

2. Section 17 of the principal Act is hereby amended— Amendment of section 17 of Act 24 of 1965.

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

“(1) The business of a society shall be managed by a board of directors which may, subject to such conditions as the board may determine, delegate any of its powers to any person.”; and

(b) by the addition of the following subsections:

“(10) (a) Not more than one-third of the total number of directors of a society shall be executive officers of that society.

(b) For the purposes of paragraph (a) casual vacancies and fractions shall not be taken into account.

(11) Notwithstanding the provisions of subsections (2) and (3) a director of a society who is an executive officer of that society shall vacate his office as such a director when he ceases to be such an officer.”.

3. Section 18 of the principal Act is hereby amended— Amendment of section 18 of Act 24 of 1965.

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

“(d) any employee or any agent of the society or any person in the employ of such an agent.”; and

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

“(2) For the purposes of this section ‘employee’ shall not include an architect, attorney, quantity surveyor or similar professional person who derives fees from the society for his professional services, or an executive officer of the society.”.

4. Section 21 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 21 of Act 24 of 1965.

“(1) The board of any society may in its discretion establish one or more branch offices or agencies of the society at such place or places as it may determine.”.

5. Section 22 of the principal Act is hereby amended— Amendment of section 22 of Act 24 of 1965.

(a) by the deletion of the proviso to paragraph (b) of subsection (1);

(b) by the addition to paragraph (d) of the said subsection (1) of the following subparagraph:

“(iv) to charge, in accordance with the provisions of subsection (6) of section 40, a levy in respect of any advance in terms of the said subsection, and to receive such levy;”;

(c) by the substitution for paragraph (h) of the said subsection (1) of the following paragraph:

“(h) to act as the agent of insurance companies or societies in effecting assurances of all kinds;”;

(d) by the substitution for paragraph (j) of the said subsection (1) of the following paragraph:

“(j) to pay pensions or gratuities to, or to adopt or to establish and maintain or to join with other building societies in adopting and maintaining pension, superannuation, benevolent or medical aid funds or schemes in respect of its employees or the employees of a company contemplated in paragraph (m): Provided that the assets of any such fund or scheme shall not be merged with the assets of the society;”;

(e) by the substitution for paragraph (k) of the said subsection (1) of the following paragraph:

“(k) in the case of a permanent society, to grant loans to its employees;”;

(f) by the substitution for paragraph (m) of the said subsection (1) of the following paragraph:

“(m) to acquire or establish or join with other building societies in acquiring or establishing an insurance

company with limited liability registered or to be registered under the Companies Act, 1926 (Act No. 46 of 1926), the main activities of which shall be the effecting of any of or all the following kinds of insurances, namely—

- (i) insurance in respect of immovable property mortgaged or to be mortgaged to a society, or mortgaged or to be mortgaged to or owned by any pension, superannuation, benevolent or medical aid fund or scheme referred to in paragraph (j); or
- (ii) insurance to provide further security for the repayment of any advance made by a society on the security of a mortgage of immovable property; or
- (iii) insurance in respect of any recognized class of risk against which a society in the conduct of its business normally insures itself; or
- (iv) insurance in respect of the life of any person who has applied to the society for the issue to him of subscription shares, up to the total amount of such shares and the dividends payable on such shares at the time when they become fully paid up; or
- (v) insurance in respect of such other matters as the Registrar may approve:

Provided that—

- (a) save with the consent of the registrar, no person other than a building society shall be the registered or beneficial owner of any share in any such insurance company and that a building society or building societies shall at all times be the registered and beneficial owner or owners of the majority of the shares in such insurance company;
  - (b) the memorandum and articles of association of any such insurance company, in the case of such establishment thereof, and the acquisition thereof, in the case of such acquisition, or any amendment of such memorandum or articles shall be subject to the prior approval of the registrar and of the registrar of insurance; and
  - (c) the provisions of this paragraph shall not be construed as prohibiting the continuance or renewal of any insurance referred to therein, if the circumstances by virtue of which it was effected have ceased to exist;” and
- (g) by the insertion after paragraph (m) of the said subsection (1) of the following paragraph:
- “(mA) to conduct, subject to such conditions as the Minister may impose, its business in any other country or territory approved by the Minister;”.

6. Section 26 of the principal Act is hereby amended by the substitution for the table in subsection (7) of the following table: Amendment of section 26 of Act 24 of 1965.

"TABLE.

<i>Total assets as at the close of the last preceding financial year.</i>	<i>Maximum aggregate fixed deposits.</i>
Under R200,000 .. .. .	R25,000
R200,000 and under R500,000 .. .. .	R50,000
R500,000 and under R2,000,000 .. .. .	R100,000
R2,000,000 and under R10,000,000 .. .. .	R150,000
R10,000,000 and under R20,000,000 .. .. .	R200,000
R20,000,000 and over .. .. .	R250,000"

7. Section 28 of the principal Act is hereby amended—

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

Amendment of section 28 of Act 24 of 1965, as amended by section 3 of Act 99 of 1967.

“(b) fixed period shares, which shall be—

- (i) paid-up shares issued for periods of not less than five years;
- (ii) subscription shares calculated to mature after the expiry of a period of not less than three years,

and of which the shareholder shall not be entitled to demand redemption and which the society shall not be entitled to redeem before the period of issue has expired or the share has matured: Provided that no society with total assets as set out in any item of the first column in the table hereunder, shall issue to any one person such subscription shares amounting, in the aggregate, exclusive of any dividend, to a sum exceeding the sum set out opposite that item in the second column of such table: Provided further that no society shall issue a subscription share to any limited liability company other than an association licensed in terms of section 21 of the Companies Act, 1926 (Act No. 46 of 1926): Provided further that at any time before the expiry of such period after which a subscription share is calculated to mature, the society may, at the request of the shareholder, extend such period for a further period of not less than twelve months after the expiry of which such share is calculated to mature, in which event such share shall mature after the expiry of such period of extension, and that the society may thereafter from time to time similarly extend the total period after the expiry of which such share is calculated to mature, in which case such share shall mature after the expiry of any further period of such extension:

"TABLE.

<i>Total assets as at the close of the last preceding financial year.</i>	<i>Maximum aggregate subscription shares.</i>
Under R200,000 .. .. .	R15,000
R200,000 and under R500,000 .. .. .	R30,000
R500,000 and under R2,000,000 .. .. .	R60,000
R2,000,000 and under R10,000,000 .. .. .	R90,000
R10,000,000 and under R20,000,000 .. .. .	R120,000
R20,000,000 and over .. .. .	R150,000"

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

“(a) where the share forms part of the assets in an insolvent or a deceased estate;”.

8. Section 29 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph: Amendment of section 29 of Act 24 of 1965.
- “(a) subject to the provisions of sections 38 to 46, inclusive, in advances or re-advances to members and others on the security of a reducible or fixed term mortgage of urban immovable property;”.
9. Section 31 of the principal Act is hereby amended— Amendment of section 31 of Act 24 of 1965.
- (a) by the substitution for the proviso to subsection (1) (a) of the following proviso:
- “Provided that in respect of its liabilities in the form of fixed deposits and subscription shares a society may, instead of an amount calculated in accordance with the foregoing provisions of this paragraph, maintain liquid assets equal to seven and one-half per cent of the aggregate amount of all such deposits and shares.”; and
- (b) by the substitution for subsection (2) of the following subsection:
- “(2) The liabilities of a society as calculated for the purposes of subsection (1) may be reduced by the amount owing on loans made against the security of deposits or shares in accordance with section 29 (b): Provided that the liabilities of a society, calculated for the purpose of subsection (1) shall not include the amount of advances made by the State to the society.”.
10. The following section is hereby substituted for section 36 of the principal Act: Substitution of section 36 of Act 24 of 1965.
- “General reserve. 36. (1) Every permanent society shall establish and maintain a general reserve and shall pay into such reserve—
- (a) the amount standing to the credit of its statutory reserve as at the date of commencement of the Building Societies Amendment Act, 1968;
- (b) such amounts out of its profits as it may from time to time deem fit.
- (2) Every permanent society shall annually review the adequacy of its general reserve and, if deemed necessary, pay out of its profits further amounts into such reserve.
- (3) The provisions of subsections (1) and (2) shall not be construed as prohibiting a society from drawing upon such reserve.”.
11. Section 38 of the principal Act is hereby amended— Amendment of section 38 of Act 24 of 1965, as amended by section 14 of Act 58 of 1966.
- (a) by the substitution for the second proviso to subsection (1) of the following proviso:
- “Provided further that where a society increases the rate of interest on an advance, this subsection shall not be so construed that it requires the society to increase the regular repayments of such advance.”; and
- (b) by the substitution for subsection (2) of the following subsection:
- “(2) A reducible mortgage of immovable property may, subject to the provisions of section 39 (1), section 40 (4) and section 41, be converted at any time into a fixed term mortgage of immovable property, but unless a valuation is then effected in manner provided by section 47, no such conversion shall have the effect that the date of repayment of the capital amount advanced may be extended beyond the date on which it would have been repayable if no conversion had taken place.”.
12. Section 39 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 39 of Act 24 of 1965.
- “(2) A fixed term mortgage of immovable property may, subject to the provisions of sections 38 (1) and 40 (2), be converted at any time into a reducible mortgage of immovable property, provided a valuation in terms of section 47

is effected of such property at the time of such conversion, and any such reducible mortgage shall in all respects be regarded as if a mortgage in respect of the advance in question had for the first time been granted on the date of such conversion.”.

13. Section 40 of the principal Act is hereby amended— Amendment of  
section 40 of  
Act 24 of 1965.  
(a) by the substitution for subsection (2) of the following subsection:

“(2) Subject to the provisions of subsection (6) a permanent society shall not on the security of a reducible mortgage of immovable property advance more than—

(a) eighty-two and one-half per cent of the value reasonably determined of the property hypothecated or the lease or licence ceded, if a dwelling house has been or is being erected on such property or the property to which such lease or licence relates; or

(b) eighty per cent of such value in any other case: Provided that if collateral security is furnished it may advance an amount—

(i) not exceeding the value so determined of the said property, lease or licence; and

(ii) not exceeding the sum of—

(aa) eighty-two and one-half per cent, in the case contemplated in paragraph (a), or eighty per cent, in any other case, of the value so determined of the said property, lease or licence; plus

(bb) the value of the collateral security calculated as provided in section 46 (2).”;

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

“(a) legal proceedings instituted by it against such owner, and other legal steps taken by it, for the recovery of any of the moneys due under the mortgage bond resulting from default on the part of such owner;”;

- (c) by the substitution in subsection (4) for the words preceding the proviso of the following words:

“Subject to the provisions of subsection (6) a permanent society shall not, on the security of a fixed term mortgage of immovable property advance more than sixty-six and two-thirds per cent of the value reasonably determined of the property hypothecated or the lease or licence ceded and of the costs of transfer of the said property in so far as such costs do not exceed four per cent of the purchase price of such property;” and

- (d) by the addition of the following subsections:

“(6) (a) Notwithstanding the provisions of subsections (2) and (4) a permanent society may make an advance exceeding the advance which it may make in terms of either of the said subsections if the circumstances contemplated in the provisos to the said subsections are not present, but not exceeding ninety per cent of the value reasonably determined of the property hypothecated or the lease or licence ceded, provided—

(i) a dwelling house has been or is being erected on such property or the property to which such lease or licence refers, and the value of such property, lease or licence does not exceed R20,000; and

(ii) the person to whom such advance is to be made has paid to it in cash a levy calculated on such basis as the society may with the approval of the registrar have determined.

(b) Any fees received by a society by virtue of the provisions of paragraph (a) (ii), together with such other sums as it may at any time deem appropriate, shall be credited by it to a reserve which shall be maintained by it in such manner as the registrar may approve.

(c) If the proceeds of the realization of any property, lease or licence by virtue of any mortgage or cession in favour of a society in respect of an advance contemplated in paragraph (a), is not sufficient to redeem such advance, such society may debit to the reserve referred to in paragraph (b) the amount of the deficit in so far as it does not exceed the difference between the amount of the advance made and the maximum amount of the advance which, but for the provisions of this subsection, the society might have made in the circumstances.

(7) Any society which fails to maintain a reserve in terms of subsection (6) (b) shall be guilty of an offence."

14. Section 67 of the principal Act is hereby amended by the substitution for subsection (10) of the following subsection: **Amendment of section 67 of Act 24 of 1965.**

"(10) Where the auditor of a society is a partnership, the appointment of such auditor shall not lapse by reason of a change in the composition of the partnership, as long as not less than half the partners of the reconstituted partnership are persons who were, as at the date when the appointment of the partnership was last approved by the registrar, partners therein."

15. The following section is hereby substituted for section 71 of the principal Act: **Substitution of section 71 of Act 24 of 1965.**

**71. (1)** A society shall upon receipt of a written request by the registrar to that effect discontinue the publication or the issue of any advertisement, brochure, prospectus or similar document specified in the request, which in the opinion of the registrar is not a correct statement of fact or not in the public interest.

(2) Any society which fails to comply with a request of the registrar under subsection (1) shall be guilty of an offence."

16. Section 82 of the principal Act is hereby amended by the deletion of subsection (3). **Amendment of section 82 of Act 24 of 1965.**

17. The principal Act is hereby amended by the substitution for the words "statutory reserve", wherever they occur, of the words "general reserve". **Substitution of expression "statutory reserve" in Act 24 of 1965.**

18. This Act shall be called the Building Societies Amendment Act, 1968. **Short title.**