

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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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 828.

22 April 1988

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

No. 44 van 1988: Wysigingswet op Onderlinge Hulpverenigings, 1988.

No. 828.

22 April 1988

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

No. 44 of 1988: Friendly Societies Amendment Act, 1988.

FRIENDLY SOCIETIES AMENDMENT ACT, 1988

Act No. 44, 1988

GENERAL EXPLANATORY NOTE:

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

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Friendly Societies Act, 1956, so as to provide for the exemption of certain friendly societies from the provisions of that Act; and for the conversion of a friendly society into a company; to extend the power of the Minister of Finance to make regulations; and to amplify the penal provisions; to amend the Insurance Act, 1943, so as to increase the maximum limit of benefits that may be provided by a friendly society; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 15 April 1988.)

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

Amendment of section 3 of Act 25 of 1956, as amended by section 20 of Act 103 of 1979

1. Section 3 of the Friendly Societies Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—

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

“(1) The provisions of this Act shall not apply in relation to any friendly society—

(a) which has been established in terms of an agreement published or deemed to have been published under section *forty-eight* of the **[Industrial Conciliation] Labour Relations Act, 1956** (Act No. 28 of 1956), except that such society shall from time to time furnish the registrar with such statistical information as may be prescribed by the Minister; and

(b) of which the aggregate value of income does not exceed R100 000 per annum, except that such society shall comply with the provisions of any regulation that may be made in relation to it;” and

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

“(a) that the aggregate value of the income likely to be received by a friendly society which **[has applied for registration under this Act]** is at the commencement of the **Friendly Societies Amendment Act, 1988**, registered under this Act, will not in general exceed during any year an amount of **[five hundred pounds] R100 000**, he may by notice in writing addressed to that society, and on such conditions as may be specified in that notice, exempt that society from the operation of all or any of the provisions of this Act;” and

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

5 “(b) that a friendly society which has [so] applied for registration under this Act, operates exclusively by means of policies of insurance issued by a person lawfully carrying on an insurance business within the meaning of the Insurance Act, he may by notice in writing addressed to that society, and on such conditions as may be specified in that notice, exempt that society from the operation of all or any of the provisions of this Act;”.

10 Amendment of section 5 of Act 25 of 1956, as amended by section 1 of Act 60 of 1963, section 1 of Act 67 of 1965 and section 20 of Act 86 of 1984

2. Section 5 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

15 “(1) Subject to the provisions of section 3, [Every] every friendly society shall apply to the registrar for registration under this Act.”.

Addition of sections 38A, 38B and 38C to Chapter V of Act 25 of 1956

3. The following sections are hereby added to Chapter V of the principal Act:

“Application for approval for conversion of society into company

20 **38A. (1)** A registered society intending to apply in terms of section 4 of the Insurance Act, 1943 (Act No. 27 of 1943), to the Registrar of Insurance to carry on a particular class of insurance business within the meaning of that Act, may apply to the Registrar of Friendly Societies for his approval for its conversion into a company referred to in section 4 (3)bis (b) (i) of that Act, so as to be able to make such application to the Registrar of Insurance.

25 (2) An application to the Registrar of Friendly Societies referred to in subsection (1), shall be accompanied by—

- 30 (a) a proposed memorandum and articles of association for the public company to be established by the conversion;
- (b) an exposition of the basis and conditions on which it is contemplated to offer or grant shares in that company to persons who are members of the Society, and other persons;
- (c) an exposition of the manner in which the first directors of that company are to be designated.

35 **Incorporation as company**

38B. (1) As soon as the Registrar of Friendly Societies has granted approval for the conversion referred to in section 38A (1), the Society may apply to be incorporated as a company under Chapter IV of the Companies Act, 1973 (Act No. 61 of 1973), after which the Registrar of Companies may register the said memorandum and articles of association in accordance with the provisions of section 63 of that Act.

40 (2) The society is by such registration converted into such company.

(3) The Registrar of Friendly Societies shall give notice in the *Gazette* of such conversion.

45 **Effects of conversion of friendly society into company**

38C. (1) At the registration of a company converted from a friendly society—

- (a) all assets, liabilities, rights and obligations of the society shall vest in the company; and

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(b) the provisions of the Friendly Societies Act, 1956 (Act No. 25 of 1956), shall cease to apply to the society.

5 (2) Any legal proceedings instituted by or against the society prior to the said registration, may be continued by or against the company, and anything else done by or in respect of the society shall be deemed to have been done by or in respect of the company.”

Amendment of section 46 of Act 25 of 1956

4. Section 46 of the principal Act is hereby amended by the addition of the following subsection:

10 “(3) Every society exempted under section 3 (1) (b) or (2) shall deliver to any member on demand by such member, and on payment of such sum as may be determined by the rules of the society, a copy of any of the following documents, that is to say—

15 (a) the rules of the society;
 (b) the last revenue account or balance sheet prepared as prescribed by regulation; and
“(c) any other information or document as prescribed by regulation.”

Amendment of section 47 of Act 25 of 1956, as amended by section 26 of Act 103 of 1979 and section 21 of Act 86 of 1984

20 5. Section 47 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1) thereof:

“(2) A regulation made under this section may in respect of any contravention thereof or failure to comply therewith prescribe a penalty not exceeding a fine of R1 000 or imprisonment for a period of six months.”

25 Amendment of section 48 of Act 25 of 1956, as amended by section 31 of Act 101 of 1976

6. Section 48 of the principal Act is hereby amended—

(a) by the substitution for paragraphs (i), (ii), (iii) and (iv) of the following paragraphs, respectively:

30 “(i) in the case of an offence referred to in paragraph (a), to a fine not exceeding [ten pounds] R50;

(ii) in the case of an offence referred to in paragraph (b) or (c), to a fine not exceeding [twenty-five pounds] R100;

35 (iii) in the case of an offence referred to in paragraph (d), (e) or (f), to a fine not exceeding [fifty pounds] R200; and

(iv) in the case of an offence referred to in paragraph (g), to a fine not exceeding [one hundred pounds] R2 000, or, if the offender is an individual, to imprisonment for a period not exceeding [twelve] 12 months, or to both such fine and such imprisonment.”; and

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

45 “(2) Without derogation from the provisions of subsection (1), a person who has failed to make a return or to maintain, 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.”

Amendment of section 1 of Act 27 of 1943, as amended by section 50 of Act 25 of 1956 and section 1 of Act 101 of 1976

7. Section 1 of the Insurance Act, 1943, is hereby amended by the substitution for 50 paragraph (a) of the definition of “insurance business” of the following paragraph:

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- 5 “(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 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] R720 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] R5 000 (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;”
- 10

Short title and commencement

- 15 8. This Act shall be called the Friendly Societies Amendment Act, 1988, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.