

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



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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No. 11413

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1396.

15 Julie 1988

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

No. 91 van 1988: Wysigingswet op die Spaarbankgenootskap Kaap die Goeie Hoop, 1988.

No. 1396.

15 July 1988

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

No. 91 of 1988: Cape of Good Hope Savings Bank Society Amendment Act, 1988.

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ACT, 1988

Act No. 91, 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 Cape of Good Hope Savings Bank Society Act, 1968, so as to revoke The Cape of Good Hope Savings Bank Society's objects and powers as a banking institution and to provide for its continued existence as a benevolent society under the name of The Cape of Good Hope Society, for a decrease in and the determination of the number of directors of that Society, a decrease in the required minimum number of members of that Society, the abolition of the requirement that members should be male persons, the grant of certain exemptions to that Society, and the repeal of certain redundant provisions; and to provide for incidental and connected matters.

*(Afrikaans text signed by the State President.)*  
*(Assented to 6 July 1988.)*

## Preamble

**W**HEREAS The Cape of Good Hope Savings Bank Society, in collaboration with other persons, procured the establishment of the Cape of Good Hope Bank, Limited, a company registered under the Companies Act, 1973, and authorized to carry on the business of a banking institution under the Banks Act, 1965;

**A**ND WHEREAS the said Society has in terms of section 30 of the Banks Act, 1965, transferred its assets and liabilities to the said Cape of Good Hope Bank, Limited, in exchange for shares in that company with effect from 1 April 1986;

**A**ND WHEREAS the said Society has thus ceased to carry on business as a banking institution;

**A**ND WHEREAS the members of the said Society, in deference to its long and honourable history and the high standing at all times enjoyed by it in the community which it serves, desire that it shall continue in existence as a body corporate under the name of The Cape of Good Hope Society, with objects and powers that will enable it to render benevolent, charitable and similar services to the community, in keeping with the aims of its founders and of its members throughout its existence;

**A**ND WHEREAS it is necessary and expedient to amend the Cape of Good Hope Savings Bank Society Act, 1968, accordingly:

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**B**E IT THEREFORE ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

## Amendment of section 1 of Act 33 of 1968, as amended by section 1 of Act 85 of 1979

1. Section 1 of the Cape of Good Hope Savings Bank Society Act, 1968 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of "Articles" of the following definition:  
 "Articles" means the Articles set forth in Schedule 3, as amended from time to time under section 24 (2);";
- 10 (b) by the deletion of the definitions of "Banks Act" and "borrower";
- (c) by the substitution for the definition of "notice" of the following definition:  
 "notice", in relation to a member, means written notice forwarded to the registered address of [a member, depositor or borrower] the member, or failing any such registered address, to the last known address, given to the Society by such member, [depositor or borrower] and in the absence of any address, includes publication of a notice in [the Gazette or in a newspaper] an English and an Afrikaans newspaper circulating in Cape Town;";
- 15 (d) by the deletion of the definitions of "person" and "Registrar"; and
- 20 (e) by the substitution for the definition of "Society" of the following definition:  
 "Society" means The Cape of Good Hope Society referred to in section 3;";

## Repeal of section 2 of Act 33 of 1968

25 2. Section 2 of the principal Act is hereby repealed.

## Substitution of section 3 of Act 33 of 1968

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

**Continued existence of body corporate**

30 3. (1) The body corporate which was established and existed under the name of The Cape of Good Hope Savings Bank Society and conducted its business under the name of The Cape of Good Hope Savings Bank, as provided in this section prior to its substitution by section 3 of the Cape of Good Hope Savings Bank Society Amendment Act, 1988, shall continue to exist as a body corporate, notwithstanding the substitution, but as from the commencement of that Act it shall be known as The Cape of Good Hope Society, conduct its business under that name and have the objects, powers, rights and duties provided for in this Act as amended by that Act or any other law, including the right to a common seal and the power to change it from time to time.

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40 (2) Subject to the provisions of section 30 of the Banks Act, 1965 (Act No. 23 of 1965), with reference to the transfer of the assets and liabilities of the said corporate body to the Cape of Good Hope Bank, Limited, with effect from 1 April 1986, any reference in any instrument, book, document or other writing to The Cape of Good Hope Savings Bank Society or The Cape of Good Hope Savings Bank shall be construed as a reference to The Cape of Good Hope Society."

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## Substitution of section 5 of Act 33 of 1968, as amended by section 2 of Act 85 of 1979

4. The following section is hereby substituted for section 5 of the principal Act:

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**“Objects and powers**

5. (1) The objects of the Society [shall be as follows] are to carry on, continue, extend and develop the business of a benevolent society at Cape Town and at such other places as the Board may determine from time to time, and in particular to invest or otherwise employ its funds profitably in order to donate moneys from its profits for benevolent, charitable, ecclesiastical, educational and scholastic purposes.

(2) For the purpose of achieving its objects but subject to the provisions of this Act and any other applicable law, the Society is empowered—

- (a) To carry on, continue, extend and develop as the Board may deem expedient the business of a banking institution at Cape Town and at such other places as the Board may from time to time determine and in particular to carry on the business of banking in all the branches and departments thereof and to do, carry on and carry out everything incidental or necessary thereto or which may at any time be usual in connection with the business of banking at any place in which the Society carries on that business] to invest its funds in shares, debentures, stocks, securities or deposits of any nature;
- (b) to acquire in any manner and take over in whole or in part the business, goodwill, assets and liabilities of any [company, society or statutory corporation] person or association of persons, corporate or unincorporate;
- (c) [(i) to amalgamate with any other banking institution, company or society having objects similar to those of the Society;]  
(ii) to enter into any agreement for the sharing of profits, consolidation of interests, co-operation or otherwise with any person doing business or about to do business or taking part in business which the Society is empowered to do;  
(iii) to acquire, purchase, sell or own any shares, debentures or any interest in the capital, income or profit of any company, society or statutory corporation;  
(iv) to enter into, carry on and participate in financial and commercial transactions of every description;
- (d) (i) to make, sign, accept, endorse, negotiate, discount and execute promissory notes, bills of exchange and other negotiable instruments [and to deal in any manner in hire purchase agreements, contracts of sale with suspensive conditions, leases with or without options to purchase and agreements providing for suspended payments, and to acquire rights under such agreements, to discount same and to lend and advance money against security thereof on such terms and conditions as the Board may determine;  
(ii) to enter into and execute guarantees and suretyships of every description, subject to the provisions of the Banks Act];
- (e) (i) to acquire land or leases of land and to erect buildings thereon primarily required for the administration of the Society's affairs, and from time to time to alienate such land or terminate or cede such leases and acquire or hire other or further land for like purposes, and to let such portion of the buildings in which the business of the Society is carried on as may not be required for the purposes of the Society;  
(ii) [subject to the approval of the Registrar in writing,] to purchase or otherwise acquire immovable property or any leases in respect thereof or rights therein, whether for the purpose of erecting buildings thereon or otherwise, and to sell, let or otherwise dispose of such immovable property, buildings, leases or rights on such terms and conditions as the Board may determine;
- [(iii) to act as agents for the purchase and sale of any movable or immovable property, shares, stock, debentures or securities of

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- any company registered in the Republic or elsewhere or in connection with any financial, commercial or other transaction, and as such to hold, sell or deal in any manner with such shares, stock, debentures or securities;]
- 5 (f) to buy in, dispose of or administer movable and immovable property and other assets mortgaged or pledged to the Society;
- 10 [(g) subject to such terms and conditions as the Board may in its discretion determine, to receive deposits from any person, including a married woman or person under legal disability, and to reject or refuse to receive such deposits;]
- (h) to lend and invest from time to time such funds as are the property [or are under the management or control] of the Society—
- 15 (i) on first mortgage of immovable property in the Republic: Provided that the Society may invest in a mortgage other than first mortgage upon any such immovable property if the Society is registered in the Deeds Registry as the holder of all existing mortgage bonds on any such property: Provided further that the Society may hold as collateral security for the amount due on any mortgage bond any personal suretyship or pledge of any other asset not being immovable property;
- 20 [(ii) in liquid assets and prescribed investments as approved by the Registrar from time to time;]
- (iii) in loans, on such terms and conditions as the Board may determine from time to time, to any person or [company] association of persons, corporate or unincorporate;
- 25 (i) [subject to the approval of the Registrar in writing,] to borrow or raise any sum or sums of money from time to time for any of the purposes of the Society, upon pledge of its assets or otherwise;
- 30 [(j) (i) to promote and support schemes for providing pensions, allowances and other benefits for or in connection with the employees and former employees of the Society and their widows and dependants;
- (ii) to donate moneys from the Society's nett profits for ecclesiastical, charitable, benevolent, educational or scholastic purposes;
- 35 (k) to act as insurance and financial agents generally;
- (l) to act as trustees, managers, secretaries, transfer secretaries, underwriters, financial and economic advisers or advisers in any other capacity;]
- 40 [(m)] and, generally, to do all such things as may be necessary, conducive or incidental to the attainment of [any or all of the Society's aforesaid objects] that purpose, or as may be usual in connection with any business carried on by the Society.
- 45 [(2) Subject to the provisions of the Banks Act, this Act and any other applicable law, the Society shall have full and unrestricted power to do everything that may be necessary to enable it to achieve all or any of its aforesaid objects: Provided that nothing contained in this section shall be construed as authorizing the Society to acquire the controlling interest in a company without the prior approval in writing of the Registrar.]”.

## Substitution of section 11 of Act 33 of 1968

50 5. The following section is hereby substituted for section 11 of the principal Act:

## “Board of directors

11. (1) The business of the Society shall be conducted and managed by a Board of not less than [five] three and not more than nine directors,

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which shall, subject to the provisions of this Act, be empowered to do all such things as it shall consider necessary for the achievement of the objects and the promotion of the welfare of the Society and for the efficient transaction of its business.

- 5           (2) The Board may from time to time determine the number of directors within the limits prescribed by subsection (1)."

**Substitution of section 13 of Act 33 of 1968**

6. The following section is hereby substituted for section 13 of the principal Act:

**"Directors not remunerated**

- 10           13. Subject to the provisions of section 14 (1), the directors shall not be remunerated for their services as directors by any payment out of the funds of the Society."

**Amendment of section 14 of Act 33 of 1968**

7. Section 14 of the principal Act is hereby amended—  
15   (a) by the deletion of paragraph (b) of subsection (1); and  
     (b) by the deletion of paragraph (b) of subsection (2).

**Substitution of section 15 of Act 33 of 1968**

8. The following section is hereby substituted for section 15 of the principal Act:

**"Number of members**

- 20           15. If the membership of the Society at any time falls below [**one hundred**] 50, and the members at the first general meeting held thereafter fail after notification to elect additional members so as to bring the membership up to not less than [**one hundred**] 50, the Board shall elect sufficient members to bring the membership up to that number."

**25 Amendment of section 16 of Act 33 of 1968, as amended by section 3 of Act 85 of 1979**

9. Section 16 of the principal Act is hereby amended—  
     (a) by the substitution for paragraph (c) of the following paragraph:  
          “(c) elect as members such fit and proper adult [**male**] persons as qualify in terms of the Articles;”;  
30       (b) by the substitution for paragraph (d) of the following paragraph:  
          “(d) elect fit, proper and qualified adult [**male**] persons to fill any vacancies which may have occurred on the Board.”

**Repeal of section 17 of Act 33 of 1968**

10. Section 17 of the principal Act is hereby repealed.

**35 Amendment of section 18 of Act 33 of 1968**

11. Section 18 of the principal Act is hereby amended—  
     (a) by the substitution for subsection (1) of the following subsection:  
          “(1) Subject to the provisions of this Act and any other law, the profits and other income of the Society may be applied only in promoting its objects, and in particular no dividend may be paid to its members.”; and  
40       (b) by the substitution for subsection (2) of the following subsection:  
          “(2) The Board may in its discretion from time to time [**increase the said**] establish Reserves or Special Provisions [**or establish similar or any other**”

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**Reserves or Special Reserves] out of the profits accruing to the Society from time to time, or merge or re-designate such Reserves or Special Provisions [for the purposes referred to in subsection (1)], to meet any contingency or for any other purpose to which the profits of the Society may be applied.”.**

## 5 Substitution of section 19 of Act 33 of 1968, as amended by section 4 of Act 85 of 1979

12. The following section is hereby substituted for section 19 of the principal Act:

## “Donations for charitable or other purposes

10 19. (1) **[Whenever the Board makes a donation] The total amount of donations made during any financial year of the Society by the Board from the profits of the Society as contemplated in section 5 [(1) (j) (ii) the amount of such donation] shall be disclosed in the annual financial statements in respect of the year in question.**

15 (2) **The total amount of [such] donations made from profits earned in any one financial year shall not [in any one year exceed] be less than an amount equal to [ten] 75 per cent of the nett profits of the Society for [the immediately preceding] that year [ : Provided that the members may at the annual general meeting authorize the payment of a greater amount].”.**

## Repeal of sections 20, 21 and 22 of Act 33 of 1968

13. Sections 20, 21 and 22 of the principal Act are hereby repealed.

## 20 Substitution of section 23 of Act 33 of 1968

14. The following section is hereby substituted for section 23 of the principal Act:

## “Pension fund

25 23. **The Society may provide for a pension fund as contemplated in and subject to the Pension Funds Act, 1956 (Act No. 24 of 1956), to provide pensions, annuities or other benefits for or in respect of employees or former employees who are or were in its service at any time on or after 1 April 1986, and their widows, widowers and dependants.”.**

## Amendment of section 24 of Act 33 of 1968

15. Section 24 of the principal Act is hereby amended by the deletion in subsection 30 (2) of the words “subject to the provisions of the Banks Act”.

## Repeal of section 25 of Act 33 of 1968

16. Section 25 of the principal Act is hereby repealed.

## Amendment of section 26 of Act 33 of 1968

17. Section 26 of the principal Act is hereby amended by the deletion of the words 35 “all amounts due to depositors with interest thereon”.

## Substitution of section 27 of Act 33 of 1968

18. The following section is hereby substituted for section 27 of the principal Act:

## “Exemptions

40 27. (1) **Save as may at any time be provided otherwise in the Articles or under subsection (2) of this section, the provisions of the Companies Act, 1973 (Act No. 61 of 1973), do not apply to the Society.**

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(2) The State President may by proclamation in the *Gazette* apply any provision of the Companies Act, 1973, not inconsistent with this Act, to the Society with such modifications as may be specified in the proclamation, and may in like manner repeal or amend any such proclamation.

5 (3) The Society shall be exempt from the payment of income tax."

**Substitution of section 28 of Act 33 of 1968**

19. The following section is hereby substituted for section 28 of the principal Act:

**"Short title**

10 28. This Act shall be called the Cape of Good Hope Society Act, 1968."

**Amendment of long title of Act 33 of 1968**

20. The long title of the principal Act is hereby amended by the deletion of the words "Savings Bank".

**Short title and commencement**

15 21. This Act shall be called the Cape of Good Hope Savings Bank Society Amendment Act, 1988, and shall be deemed to have come into operation on 1 April 1986, except section 14, which shall be deemed to have come into operation on 9 April 1987.