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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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No. 11273

KANTOOR VAN DIE STAATSPRESIDENT

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.

STATE PRESIDENT'S OFFICE

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.

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ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Onderlinge Hulpverenigings, 1956, ten einde voorsiening te maak vir die vrystelling van sekere onderlinge hulpverenigings van die bepalings van dié Wet; en vir die omskepping van 'n onderlinge hulpvereniging in 'n maatskappy; die regulasiebevoegdheid van die Minister van Finansies uit te brei; en die strafbepalings aan te vul; tot wysiging van die Versekeringswet, 1943, ten einde die maksimum perk van voordele wat deur 'n onderlinge hulpvereniging voorsien kan word, te verhoog; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 15 April 1988.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 3 van Wet 25 van 1956, soos gewysig deur artikel 20 van Wet 103 van 1979

1. Artikel 3 van die Wet op Onderlinge Hulpverenigings, 1956 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die bepalings van hierdie Wet is nie van toepassing nie met betrekking tot 'n onderlinge hulpvereniging—

(a) ingestel ooreenkomstig 'n ooreenkoms gepubliseer of geag gepubliseer te wees kragtens artikel *agt-en-veertig* van die Wet op **[Nywerheidsversoening]** Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), behalwe dat so 'n vereniging van tyd tot tyd die registrateur van sodanige statistiese inligting as wat deur die Minister voorgeskryf mag word, moet voorsien; en

(b) waarvan die totale waarde van inkomste nie R100 000 per jaar te bowe gaan nie, behalwe dat so 'n vereniging moet voldoen aan die bepalings van enige regulasie wat met betrekking tot hom uitgevaardig mag word;";

(b) deur paragraaf *(a)* van subartikel (2) deur die volgende paragraaf te vervang:

"*(a)* dat die totale waarde van die inkomste wat waarskynlik deur 'n onderlinge hulpvereniging wat **[om registrasie ingevolge hierdie Wet aansoek gedoen het]** by die inwerkingtreding van die Wysigingswet op Onderlinge Hulpverenigings, 1988, ingevolge hierdie Wet geregistreer is, ontvang sal word, in die reël nie gedurende enige jaar 'n bedrag van **[vyfhonderd pond]** R100 000 te bowe sal gaan nie, kan hy by skriftelike kennisgewing aan daardie vereniging gerig, en op die voorwaardes in bedoelde kennisgewing uiteengesit, daardie vereniging van die toepassing van enige van of al die bepalings van hierdie Wet vrystel;"; en

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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) deur paragraaf *(b)* van subartikel (2) deur die volgende paragraaf te vervang:

"*(b)* dat 'n onderlinge hulpvereniging wat **[aldus om registrasie]** om registrasie kragtens hierdie Wet aansoek gedoen het, uitsluitlik by wyse van versekeringspolisse uitgereik deur 'n persoon wat wettiglik versekeringsbesigheid binne die bedoeling van dié Versekeringswet dryf, sake doen, kan hy by skriftelike kennisgewing aan daardie vereniging gerig, en op die voorwaardes in bedoelde kennisgewing uiteengesit, daardie vereniging van die toepassing van enige van of al die bepalings van hierdie Wet vrystel;".

Wysiging van artikel 5 van Wet 25 van 1956, soos gewysig deur artikel 1 van Wet 60 van 1963, artikel 1 van Wet 67 van 1965 en artikel 20 van Wet 86 van 1984

2. Artikel 5 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Behoudens die bepalings van artikel 3 moet **[Elke]** elke onderlinge hulpvereniging **[moet]** by die registrateur om registrasie onder hierdie Wet aansoek doen.".

Byvoeging van artikels 38A, 38B en 38C by Hoofstuk V van Wet 25 van 1956

3. Die volgende artikels word hierby by Hoofstuk V van die Hoofwet gevoeg:

"Aansoek om goedkeuring vir omskepping van vereniging in maatskappy

38A. (1) 'n Geregistreerde vereniging wat voornemens is om ingevolge artikel 4 van die Versekeringswet, 1943 (Wet No. 27 van 1943), by die Registrateur van Versekeringswese aansoek te doen om 'n bepaalde soort versekeringsbesigheid ooreenkomstig die bedoeling van daardie Wet te dryf, kan by die Registrateur van Onderlinge Hulpverenigings aansoek doen om sy goedkeuring om omgeskep te word in 'n maatskappy in artikel 4 (3)*bis (b)* (i) van daardie Wet bedoel, ten einde in staat te wees om bedoelde aansoek by die Registrateur van Versekeringswese te doen.

(2) 'n Aansoek by die Registrateur van Onderlinge Hulpverenigings in subartikel (1) bedoel, gaan vergesel van—

(a) 'n voorgestelde akte van oprigting en statute vir die publieke maatskappy wat deur die omskepping tot stand sal kom;

(b) 'n uiteensetting van die grondslag en voorwaardes waarop daar beoog word om aandele in daardie maatskappy aan persone wat lede is van die vereniging, en ander persone, aan te bied of toe te staan;

(c) 'n uiteensetting van die wyse van aanwysing van die eerste direkteure van daardie maatskappy.

Inlywing as maatskappy

38B. (1) Sodra die Registrateur van Onderlinge Hulpverenigings goedkeuring vir die omskepping in artikel 38A(1) bedoel, verleen het, kan die vereniging aansoek doen om as 'n maatskappy kragtens Hoofstuk IV van die Maatskappywet, 1973 (Wet No. 61 van 1973), ingelyf te word, waarna die Registrateur van Maatskappye genoemde akte en statute ooreenkomstig die bepalings van artikel 63 van daardie Wet kan registreer.

(2) Die vereniging word by bedoelde registrasie omgeskep in so 'n maatskappy.

(3) Die Registrateur van Onderlinge Hulpverenigings gee in die *Staatskoerant* kennis van bedoelde omskepping.

Uitwerking van omskepping van onderlinge hulpvereniging in maatskappy

38C. (1) By die registrasie van 'n maatskappy wat vanaf 'n onderlinge hulpvereniging omgeskep is—

(a) gaan alle bates, laste, regte en verpligtings van die vereniging oor op die maatskappy; en

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

"*(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;".

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:

"(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

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.

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

(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.

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.

(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.

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) hou die bepalings van die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956), op om op die vereniging van toepassing te wees.

(2) 'n Regsgeding wat voor genoemde registrasie deur of teen die vereniging ingestel is, kan deur of teen die maatskappy voortgesit word, en enigiets anders wat deur of ten opsigte van die vereniging gedoen is, word geag deur of ten opsigte van die maatskappy gedoen te wees.".

Wysiging van artikel 46 van Wet 25 van 1956

4. Artikel 46 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

"(3) Elke vereniging wat kragtens artikel 3 (1) *(b)* of (2) vrygestel is, moet aan enige lid op aanvraag deur so 'n lid en by betaling van so 'n bedrag as wat die reëls van die vereniging mag vasstel, 'n afskrif van enigeen van die volgende dokumente oorhandig, te wete—

(a) die reëls van die vereniging;

(b) die jongste inkomsterekening of balansstaat opgestel soos voorgeskryf by regulasie; en

(c) enige ander inligting of dokument soos voorgeskryf by regulasie.".

Wysiging van artikel 47 van Wet 25 van 1956, soos gewysig deur artikel 26 van Wet 103 van 1979 en artikel 21 van Wet 86 van 1984

5. Artikel 47 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) daarvan word:

"(2) 'n Regulasie kragtens hierdie artikel uitgevaardig, kan ten opsigte van 'n oortreding daarvan of versuim om daaraan te voldoen 'n straf voorskryf wat 'n boete van R1 000 of gevangenisstraf vir 'n tydperk van ses maande nie te bowe gaan nie.".

Wysiging van artikel 48 van Wet 25 van 1956, soos gewysig deur artikel 31 van Wet 101 van 1976

6. Artikel 48 van die Hoofwet word hierby gewysig—

(a) deur paragrawe (i), (ii), (iii) en (iv) van subartikel (1) deur onderskeidelik die volgende paragrawe te vervang:

"(i) in die geval van 'n in paragraaf *(a)* bedoelde misdryf, met 'n boete van hoogstens **[tien pond]** R50;

(ii) in die geval van 'n in paragraaf *(b)* of *(c)* bedoelde misdryf, met 'n boete van hoogstens **[vyf-en-twintig pond]** R100;

(iii) in die geval van 'n in paragraaf *(d)*, *(e)* of *(f)* bedoelde misdryf, met 'n boete van hoogstens **[vyftig pond]** R200; en

(iv) in die geval van 'n in paragraaf *(g)* bedoelde misdryf, met 'n boete van hoogstens **[honderd pond]** R2 000 of, indien die oortreder 'n indiwidu is, met gevangenisstraf vir 'n tydperk van hoogstens **[twaalf]** 12 maande, of met daardie boete sowel as daardie gevangenisstraf."; en

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Sonder dat daardeur aan die bepalings van subartikel (1) afgedoen word, kan 'n persoon wat versuim het om 'n opgawe te verstrek of 'n skema, verslag, rekening, staat of ander dokument by te hou, te verstrek of in te dien binne die tydperk voorgeskryf by of kragtens hierdie Wet, daarna sodanige opgawe verstrek of sodanige skema, verslag, rekening, staat of ander dokument verstrek of indien onderworpe aan die betaling van 'n boete wat by regulasie voorgeskryf is.".

Wysiging van artikel 1 van Wet 27 van 1943, soos gewysig deur artikel 50 van Wet 25 van 1956 en artikel 1 van Wet 101 van 1976

7. Artikel 1 van die Versekeringswet, 1943, word hierby gewysig deur paragraaf *(a)* van die omskrywing van "versekeringsbesigheid" deur die volgende paragraaf te vervang:

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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.

(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:

"(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—

(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

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.".

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:

"(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;

(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

(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 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 paragraph *(a)* of the definition of "insurance business" of the following paragraph:

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"*(a)* die werksaamhede van 'n onderlinge hulpvereniging, tensy so 'n vereniging iemand in diens het wie se vernaamste besoldigde werksaamheid daaruit bestaan om persone te beweeg om lede van die vereniging te word, of om lede van die vereniging by hul woonplekke of hul werkplekke te besoek ten einde bydraes of intekengelde tot die fondse van die vereniging van hulle in te vorder, of tensy so 'n onderlinge hulpvereniging 'n jaargeld van meer as **[honderd vier-en-veertig rand]** R720 per jaar toeken, of voorsiening maak ten opsigte van 'n lid of ander persoon vir betalings, hetsy by die dood van so 'n lid of ander persoon of in die vorm van 'n begiftiging of uitkeringsversekering op die lewe van so 'n lid of ander persoon, wat in die geheel die som van **[duisend rand]** R5 000 (afgesien van bonusse) te bowe gaan, te eniger tyd na die datum van inwerkingtreding van die Wet op Onderlinge Hulpverenigings, 1956, en nie by wyse van vervulling van 'n verpligting wat voor bedoelde datum bestaan het nie;".

Kort titel en inwerkingtreding

8. Hierdie Wet heet die Wysigingswet op Onderlinge Hulpverenigings, 1988, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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"*(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;".

Short title and commencement

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*.

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