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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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KAAPSTAD, 26 MEI 1989

No. 11893

STATE PRESIDENT'S OFFICE

No. 1045. 26 May 1989

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

No. 54 of 1989: Financial Institutions Second Amendment Act, 1989.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1045. 26 Mei 1989

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

No. 54 van 1989: Tweede Wysigingswet op Finansiële Instellings, 1989.

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Act No. 54, 1989 FINANCIAL INSTITUTIONS SECOND AMENDMENT ACT, 1989

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 Insurance Act, 1943, so as to define or further define certain expressions; to reduce the period within which all registered insurers have to furnish certain information to the registrar of insurance; to extend the scope of an auditor's attestation of statements of liabilities; to authorize the Minister to prescribe by regulation a method for the calculation of unintimated claims relating to short term insurance business; to provide for the compulsory maintenance of a contingency reserve; to further regulate the extent to which outstanding premiums in respect of short term and compulsory third party insurance business may be treated as assets by insurers; to increase the minimum amount of additional assets in addition to the prescribed minimum which a short term insurer has to hold, and to authorize the registrar to determine a smaller amount; to further regulate the transmission of short term insurance premiums received by intermediaries; to provide for the furnishing of guarantees to the South African Insurance Association; to provide for the transfer of the business of a registered insurer to a separate company free of charge; to prohibit the direct or indirect acquisition of control of a registered insurer without the said registrar's prior consent and to grant discretionary powers to the registrar in the absence of such approval; to extend the power of the Minister to make regulations; to provide for the imposition of penalties for failure to comply with section 20*bis* of the said Act; to authorize the Minister to promulgate regulations in connection with the maintenance of records and a subdivision of a class of insurance business; to limit the allowance for expenses which may be deducted from premiums in calculating the liability of an insurer under unmatured policies; and to prescribe the action to be taken by an insurer in the event of an operating loss; to amend the Pension Funds Act, 1956, so as to further define "dependant"; and to further regulate the disposal of pension benefits upon the death of a member of a registered fund; to amend the Friendly Societies Act, 1956, so as to identify the societies exempt from the operation of the Act; to amend the Inspection of Financial Institutions Act, 1984, so as to authorize the registrar concerned to appoint a person who is not in the full-time employment of the State to undertake a certain inspection; and to provide that the expenses and remuneration of a temporary inspector shall be defrayed by the person being inspected; to amend the Stock Exchanges Control Act, 1985, so as to define "bank"; to amend the references in the said Act to the Building Societies Act, 1965; to further regulate the provisions relating to advertising, touting and canvassing for business; to extend the powers of the Registrar of Financial Institutions to obtain information from certain persons; and to create an offence relating to advertisements; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 17 May 1989.)

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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 Versekeringswet, 1943, ten einde sekere uitdrukkings te omskryf of nader te omskryf; die periode waarbinne alle geregistreerde versekeraars sekere inligting aan die registrateur van versekeringswese moet verstrek, te verminder; die omvang van waarmerking van state van verbintenisse deur 'n ouditeur uit te brei; aan die Minister die bevoegdheid te verleen om 'n metode vir die berekening van vorderings betreffende korttermynversekeringsbesigheid wat nie aan versekeraars bekend gemaak is nie, by regulasie voor te skryf; voorsiening te maak vir die verpligte instandhouding van 'n gebeurlikheidsreserwe; die mate waarin uitstaande premies ten opsigte van korttermyn- en verpligte derdeparty-versekeringsbesigheid deur versekeraars as bates behandel kan word, verder te reël; die minimum bedrag bykomende bates wat 'n korttermynversekeraar benewens die voorgeskrewe minimum moet hou, te verhoog, en aan die registrateur die bevoegdheid te verleen om 'n kleiner bedrag te bepaal; die deursending van korttermynversekeringspremies deur tussengangers ontvang, verder te reël; voorsiening te maak vir die voorsiening van waarborge aan die Suid-Afrikaanse Versekeringsvereniging; voorsiening te maak vir die kostelose oordrag van besigheid van 'n geregistreerde versekeraar aan 'n afsonderlike maatskappy; die direkte of indirekte verkryging van beheer van 'n geregistreerde versekeraar sonder bedoelde registrateur se vooraf verkreë toestemming te verbied en diskresionêre bevoegdhede aan die registrateur te verleen in die afwesigheid van sodanige toestemming; die bevoegdheid van die Minister om regulasies uit te vaardig, uit te brei; voorsiening te maak vir die heffing van boetes weens versuim om aan artikel 20*bis* van bedoelde Wet te voldoen; die bevoegdheid aan die Minister te verleen om regulasies uit te vaardig in verband met die byhou van aantekeninge en 'n onderverdeling van 'n soort versekeringsbesigheid; die bewilliging vir uitgawes wat van premies afgetrek mag word by die berekening van die verbintenis van 'n versekeraar kragtens nog lopende polisse, te beperk; en die optrede deur 'n versekeraar in die geval van 'n bedryfsverlies, voor te skryf; tot wysiging van die Wet op Pensioenfondse, 1956, ten einde "afhanklike" nader te omskryf; en die beskikking oor pensioenvoordele by die afsterwe van 'n lid van 'n geregistreerde fonds verder te reël; tot wysiging van die Wet op Onderlinge Hulpverenigings, 1956, ten einde die onderlinge hulpverenigings wat van die toepassing van die Wet vrygestel is, aan te dui; tot wysiging van die Wet op Inspeksie van Finansiële Instellings, 1984, ten einde die bevoegdheid aan die betrokke registrateur te verleen om 'n persoon wat nie in die heeltydse diens van die Staat is nie aan te stel om 'n sekere inspeksie te onderneem; en voorsiening te maak dat die uitgawes en vergoeding van 'n tydelike inspekteur deur die persoon wat geïnspekteer word, gedelg word; tot wysiging van die Wet op Beheer van Effektebeurse, 1985, ten einde "bank" te omskryf; die verwysings in bedoelde Wet na die Bouverenigingswet, 1965, te wysig; die bepalings ten opsigte van advertensie, smousery en werwing vir besigheid verder te reël; die magte van die Registrateur van Finansiële Instellings om inligting van sekere persone te bekom, uit te brei; en 'n misdryf ten opsigte van advertensies te skep; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 17 Mei 1989.)

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Act No. 54, 1989 FINANCIAL INSTITUTIONS SECOND AMENDMENT ACT, 1989

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

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, section 1 of Act 91 of 1972, section 1 of Act 101 of 1976, section 1 of Act 94 of 1977, section 1 of Act 80 of 1978, section 1 of Act 103 of 1979, section 1 of Act 99 of 1980, section 1 of Act 36 of 1981, section 1 of Act 86 of 1984 and section 1 of Act 106 of 1985

1. Section 1 of the Insurance Act, 1943, is hereby amended—

(a) by the insertion in subsection (1) after the definition of "actuary" of the following definition:

"'admissible reinsurances' means, for the purpose of calculating the amount of additional assets to be held by an insurer in terms of sections 17 and 18—

(i) any reinsurances which in terms of paragraph *(d)* of subsection (2) are deemed to form part of the business in the Republic of the person with whom such reinsurances were effected;

(ii) any reinsurances effected in accordance with the provisions of section 60 (1); and

(iii) any reinsurance effected in terms of section 2 of the Export Credit Re-insurance Act, 1957 (Act No. 78 of 1957);";

(b) by the substitution for the definition of "approved reinsurances" in subsection (1) of the following definition:

"'approved reinsurances' means—

(a) in the case of short term insurance business and compulsory third party insurance business, for the purpose of computing the contingent liabilities of an insurer under unmatured policies in respect of the business carried on by him in the Republic, any proportional reinsurance in terms of which a reinsurer is liable to the insurer concerned for contingent liabilities under unmatured policies and any non-proportional reinsurance which remains in force until the contingent liabilities under unmatured policies have expired—

(i) **[any reinsurances]** and which in terms of paragraph *(d)* of subsection (2) are deemed to form part of the business in the Republic of the person with whom such reinsurances were effected;

[(iA)] (ii) **[any reinsurances]** and effected in accordance with the provisions of section 60 (1);

[(iB)] (iii) **[any reinsurance]** and effected in terms of the provisions of section 2 of the Export Credit Re-insurance Act, 1957 (Act No. 78 of 1957); and

[(ii) in the case of life business, any reinsurances effected prior to the first day of January, 1952, and relating to policies issued before that date, and any other reinsurances specially approved by the registrar in exceptional circumstances at the request of the insurer concerned; and]

[(iii)] (iv) **[in the case of short-term insurance business and compulsory third party insurance business, any reinsurances]** and 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; and

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

Wysiging van artikel 1 van Wet 27 van 1943, soos gewysig deur artikel 2 van Wet 73 van 1951, artikel 39 van Wet 24 van 1956, artikel 50 van Wet 25 van 1956, artikel 1 van Wet 79 van 1959, artikel 1 van Wet 10 van 1965, artikel 1 van Wet 41 van 1966, artikel 1 van Wet 65 van 1968, artikel 1 van Wet 39 van 1969, artikel 1 van Wet 91 van 1972, artikel 1 van Wet 101 van 1976, artikel 1 van Wet 94 van 1977, artikel 1 van Wet 80 van 1978, artikel 1 van Wet 103 van 1979, artikel 1 van Wet 99 van 1980, artikel 1 van Wet 36 van 1981, artikel 1 van Wet 86 van 1984 en artikel 1 van Wet 106 van 1985

1. Artikel 1 van die Versekeringswet, 1943, word hierby gewysig—

(a) deur die invoeging in artikel 1 na die omskrywing van "aktuaris" van die volgende omskrywing:

"'toelaatbare herversekerings' beteken vir die doel van die berekening van bykomende bates wat ingevolge artikels 17 en 18 deur 'n versekeraar gehou moet word—

(i) enige herversekerings wat ingevolge subartikel (2) *(d)* geag word deel uit te maak van die besigheid in die Republiek van die persoon by wie daardie herversekerings aangegaan is;

(ii) enige herversekerings ooreenkomstig die bepalings van artikel 60 (1) aangegaan; en

(iii) enige herversekerings ingevolge die bepalings van artikel 2 van die Uitvoerkrediet-herversekeringswet, 1957 (Wet No. 78 van 1957), aangegaan;";

(b) deur die omskrywing van "goedgekeurde herversekerings" deur die volgende omskrywing te vervang:

"'goedgekeurde herversekerings' beteken—

(a) in die geval van korttermynversekeringsbesigheid en verpligte derdeparty-versekeringsbesigheid, by die berekening van die voorwaardelike verbintenisse van 'n versekeraar kragtens nog lopende polisse ten opsigte van die besigheid wat hy binne die Republiek dryf, enige proporsionele herversekering waarkragtens 'n herversekeraar aan die betrokke versekeraar aanspreeklik is vir voorwaardelike verbintenisse kragtens nog lopende polisse en enige nie-proporsionele herversekering wat van krag bly totdat die voorwaardelike verbintenisse kragtens nog lopende polisse verval het—

(i) **[enige herversekerings wat]** en ingevolge paragraaf *(d)* van subartikel (2) geag word deel uit te maak van die besigheid in die Republiek van die persoon by wie daardie herversekerings aangegaan is;

[(iA)] (ii) **[enige herversekering]** en ooreenkomstig die bepalings van artikel 60 (1) aangegaan is;

[(iB)] (iii) **[enige herversekering]** en aangegaan is ingevolge die bepalings van artikel 2 van die Uitvoerkrediet-herversekeringswet, 1957 (Wet No. 78 van 1957); en

[(ii) in die geval van lewensbesigheid, enige herversekerings wat voor die eerste dag van Januarie 1952 aangegaan is en betrekking het op polisse voor daardie datum uitgereik, en ander herversekerings wat onder buitengewone omstandighede op versoek van die betrokke versekeraar spesiaal deur die registrateur goedgekeur is; en]

[(iii)] (iv) **[in die geval van korttermynversekeringsbesigheid en verpligte derdepartyversekeringsbesigheid, enige herversekerings]** en aangegaan is onder 'n herversekeringspolis of -kontrak ingevolge waarvan die herversekeraar in die Republiek geld hou by die versekeraar deur wie die herversekering aangegaan is waarop die versekeraar 'n eerste aanspraak en pandreg het as sekuriteit teen verliese wat veroorsaak mag word ingeval die herversekeraar versuim om sy verpligtings kragtens bedoelde polis of kontrak na te kom of ingeval bedoelde polis of kontrak om die een of ander rede ten einde kom;

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(b) in the case of life business for the purpose of computing the contingent liabilities of an insurer under unmatured policies, in respect of the business carried on by him in the Republic—

(i) any reinsurances which in terms of paragraph *(d)* of subsection (2) are deemed to form part of the business in the Republic of the person with whom such reinsurances were effected; and

(ii) any reinsurances effected prior to the first day of January, 1952, and relating to policies issued before that date, and any other reinsurances specially approved by the registrar in exceptional circumstances at the request of the insurer concerned;

[*(b)*]*(c)* for the purpose of computing the contingent liabilities of an insurer under unmatured policies, in respect of the business which he carries on outside the Republic **[any reinsurances]** any proportional reinsurance in terms of which the insurer's reinsurer is liable to the insurer concerned for contingent liabilities under unmatured policies and any non-proportional reinsurance which remains in force until the contingent liabilities under unmatured policies have expired; and

[*(c)*]*(d)* for the purposes of computing the liabilities of an insurer other than contingent liabilities under unmatured policies, any reinsurances;";

(c) by the insertion in subsection (1) after the definition of "approved securities" of the following definition:

"'associate', in relation to an insurer, includes—

(a) a person who controls the insurer;

(b) a person who controls the person referred to in paragraph *(a)*;

(c) a subsidiary of the insurer or of a person referred to in paragraph *(a)* or *(b)*;

(d) a director, the chief executive officer, other executive officers or the secretary of the insurer or of a person referred to in paragraph *(a)* or *(b)* or of a subsidiary referred to in paragraph *(c)*;

(e) a partner of the insurer or of a person referred to in paragraph *(a)* or *(b)*; or

(f) the spouse or minor child of a natural person referred to in paragraphs *(a)* to *(e)*;";

(d) by the insertion in subsection (1) after the definition of "mutual insurer" of the following definition:

"'non-proportional reinsurance' means reinsurance where a reinsurer's share of a loss is not proportional to his share of original premiums;";

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

"'proportional reinsurance', in the case of short term insurance business, means reinsurance of a part of an original insurance, premiums and losses being shared in the same proportion between reinsurer and insurer;"; and

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

"'reinsurance' means insurance by a second insurer of an obligation under a policy issued by the first insurer;".

Substitution of section 8 of Act 27 of 1943, as amended by section 6 of Act 73 of 1951

2. The following section is hereby substituted for section 8 of the Insurance Act, 1943:

"Insurer must notify registrar of certain changes and particulars

8. Every registered insurer shall within a period of **[six]** four months as from the close of each financial year of his insurance business furnish to

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(b) in die geval van lewensbesigheid by die berekening van die voorwaardelike verbintenisse van 'n versekeraar kragtens nog lopende polisse, ten opsigte van die besigheid wat hy binne die Republiek dryf—

(i) enige herversekerings wat ingevolge paragraaf *(d)* van subartikel (2) geag word deel uit te maak van die besigheid in die Republiek van die persoon by wie daardie herversekerings aangegaan is; en

(ii) enige herversekerings wat voor die eerste dag van Januarie 1952 aangegaan is en betrekking het op polisse voor daardie datum uitgereik, en ander herversekerings wat onder buitengewone omstandighede op versoek van die betrokke versekeraar spesiaal deur die registrateur goedgekeur is;

[*(b)***]***(c)* by die berekening van die voorwaardelike verbintenisse van 'n versekeraar kragtens nog lopende polisse, ten opsigte van die besigheid wat hy buite die Republiek dryf **[enige herversekerings]**, enige proporsionele herversekering waarkragtens die betrokke versekeraar se herversekeraar aan die versekeraar aanspreeklik is vir voorwaardelike verbintenisse kragtens nog lopende polisse en enige nie-proporsionele herversekering wat van krag bly totdat die voorwaardelike verbintenisse kragtens nog lopende polisse verval het; en

[*(c)***]***(d)* by die berekening van ander verbintenisse van 'n versekeraar as voorwaardelike verbintenisse kragtens nog lopende polisse, enige herversekerings;";

(c) deur in subartikel (1) na die omskrywing van "goedgekeurde effekte" die volgende omskrywing in te voeg:

"'geassosieerde', met betrekking tot 'n versekeraar, sluit in—

(a) 'n persoon wat die versekeraar beheer;

(b) 'n persoon wat die in paragraaf *(a)* bedoelde persoon beheer;

(c) 'n filiaal van die versekeraar of 'n persoon in paragraaf *(a)* of *(b)* bedoel;

(d) 'n direkteur, die hoof- uitvoerende beampte, ander uitvoerende beamptes of die sekretaris van die versekeraar of van 'n persoon bedoel in paragraaf *(a)* of *(b)* of van 'n filiaal bedoel in paragraaf *(c)*;

(e) 'n vennoot van die versekeraar of van 'n persoon bedoel in paragraaf *(a)* of *(b)*; of

(f) die gade of minderjarige kind van 'n natuurlike persoon in paragrawe *(a)* tot *(e)* bedoel;";

(d) deur in subartikel (1) na die omskrywing van "onderlinge versekeraar" die volgende omskrywing in te voeg:

"'nie-proporsionele herversekering' beteken herversekering waar 'n herversekeraar se aandeel in 'n verlies nie proporsioneel is tot sy deel van oorspronklike premies nie;";

(e) deur in subartikel (1) na die omskrywing van "polis" die volgende omskrywing in te voeg:

"'proporsionele herversekering' beteken, in die geval van korttermyn-versekeringsbesigheid, herversekering van 'n gedeelte van 'n oorspronklike versekering, waar premies en verliese verdeel word in dieselfde verhouding tussen herversekeraar en versekeraar;"; en

(f) deur in subartikel (1) na die omskrywing van "regulasie" die volgende omskrywing in te voeg:

"'herversekering' beteken versekering deur 'n tweede versekeraar van 'n verpligting kragtens 'n polis wat deur die eerste versekeraar uitgereik is;".

Vervanging van artikel 8 van Wet 27 van 1943, soos gewysig deur artikel 6 van Wet 73 van 1951

2. Artikel 8 van die Versekeringswet, 1943, word hierby deur die volgende artikel vervang:

"Versekeraar moet registrateur van sekere veranderings en besonderhede in kennis stel

8. Elke geregistreerde versekeraar moet binne 'n tydperk van **[ses]** vier maande vanaf die verstryking van elke boekjaar van sy versekerings-

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the registrar a statement of any change which occurred during the said year in any matter specified by regulation for the purposes of this section, in relation to the insurer concerned.".

Amendment of section 9 of Act 27 of 1943, as amended by section 7 of Act 73 of 1951, section 8 of Act 79 of 1959, section 7 of Act 10 of 1965, section 5 of Act 39 of 1969 and section 4 of Act 106 of 1985

3. Section 9 of the Insurance Act, 1943, is hereby amended by the substitution for subsection (7) of the following subsection:

"(7) The auditor of a domestic insurer or local auditor of a foreign insurer shall satisfy himself that the statement of the insurer's liabilities prepared by the insurer in terms of sections *twelve* and *thirteen*, is a true and fair statement thereof according to the books of the insurer and any other information which may be necessary for that purpose (including, in the case of a foreign insurer, any such information furnished to him by the auditor of the insurer), and shall, if he has so satisfied himself, attest such statement accordingly, or, if he cannot so satisfy himself, attest it subject to such qualifications as he may deem necessary, and shall, in attesting any such statement, indicate **[how he has satisfied]** what reasonable steps he has taken to satisfy himself as to the **[reasonableness]** adequacy of the insurer's estimates of his liabilities of the kinds mentioned in subparagraphs (i), (ii), (iiA) and (iii) of paragraph *(a)* of section *thirteen*.".

Amendment of section 11 of Act 27 of 1943, as substituted by section 9 of Act 73 of 1953, section 8 of Act 10 of 1965, section 3 of Act 103 of 1979 and section 6 of Act 99 of 1980

4. Section 11 of the Insurance Act, 1943, is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)*, and paragraph *(a)*, of the following words and paragraph, respectively:

"(1) Every registered insurer shall within a period of **[six]** four months as from the expiration of each financial year of his insurance business prepare and furnish to the registrar—

(a) a revenue account—

(i) in respect of the insurance business carried on by him during that year, not being insurance business in respect of which subparagraph (ii) applies;

(ii) if the regulations so **[describe]** prescribe, in respect of any class or subdivision of a class of short term insurance business or compulsory third party insurance business carried on by him during such period as may be so prescribed,

including any such business carried on outside the Republic;"; and

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

"(2) The accounts and balance sheet referred to in subsection (1) shall be prepared in accordance with regulations, which may prescribe different forms of **[revenue]** such accounts or balance sheets for various classes of insurance business and may require information or documents to be furnished in regard to any matter affecting the said accounts or the said balance **[sheet]** sheets and may prescribe different requirements in respect of domestic insurers and foreign insurers.".

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besigheid 'n opgaaf van alle veranderings wat gedurende bedoelde jaar plaasgevind het in enige aangeleentheid wat by regulasie bepaal word vir die toepassing van hierdie artikel, met betrekking tot die betrokke versekeraar, aan die registrateur verstrek.".

Wysiging van artikel 9 van Wet 27 van 1943, soos gewysig deur artikel 7 van Wet 73 van 1951, artikel 8 van Wet 79 van 1959, artikel 7 van Wet 10 van 1965, artikel 5 van Wet 39 van 1969 en artikel 4 van Wet 106 van 1985

3. Artikel 9 van die Versekeringswet, 1943, word hierby gewysig deur subartikel (7) deur die volgende subartikel te vervang:

"(7) Die ouditeur van 'n binnelandse versekeraar of plaaslike ouditeur van 'n buitelandse versekeraar moet hom daarvan vergewis dat die opgawe van die versekeraar se verbintenisse, soos ooreenkomstig artikels *twaalf* en *dertien* deur die versekeraar opgemaak, 'n ware en billike weergawe bevat volgens die boeke van die versekeraar en ander inligting wat vir daardie doel nodig is (waarby inbegrepe, in die geval van 'n buitelandse versekeraar, inligting deur die ouditeur van die versekeraar aan die plaaslike ouditeur verstrek), en moet, indien hy hom aldus vergewis het, bedoelde opgawe dienooreenkomstig waarmerk, of, indien hy hom nie aldus kan vergewis nie, dit waarmerk onderworpe aan die voorbehoude wat hy nodig ag, en moet, wanneer hy so 'n opgawe waarmerk, aandui **[op watter wyse hy hom vergewis het]** watter redelike stappe hy gedoen het ten einde hom te vergewis van die **[redelikheid]** toereikendheid van die versekeraar se beramings ten opsigte van sy verbintenisse van die soorte in subparagrawe (i), (ii), (iiA) en (iii) van paragraaf *(a)* van artikel *dertien* vermeld.".

Wysiging van artikel 11 van Wet 27 van 1943, soos vervang deur artikel 9 van Wet 73 van 1953, artikel 8 van Wet 10 van 1965, artikel 3 van Wet 103 van 1979 en artikel 6 van Wet 99 van 1980

4. Artikel 11 van die Versekeringswet, 1943, word hierby gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan, en paragraaf *(a)*, deur onderskeidelik die volgende woorde en paragraaf te vervang:

"(1) Elke geregistreerde versekeraar moet binne 'n tydperk van **[ses]** vier maande na die verstryking van elke boekjaar van sy versekeringsbesigheid—

(a) 'n inkomsterekening—

(i) ten opsigte van die versekeringsbesigheid, behalwe versekeringsbesigheid ten opsigte waarvan subparagraaf (ii) van toepassing is, gedurende daardie jaar deur hom gedryf;

(ii) indien die regulasies aldus voorskryf, ten opsigte van enige soort of onderafdeling van 'n soort korttermynversekeringsbesigheid of verpligte derdeparty-versekeringsbesigheid gedurende 'n aldus voorgeskrewe tydperk deur hom gedryf,

met inbegrip van sodanige besigheid wat hy buite die Republiek gedryf het;"; en

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

"(2) Die in subartikel (1) bedoelde rekenings en balansstaat word opgemaak volgens voorskrif van regulasies, wat verskillende vorms van **[inkomsterekening]** sodanige rekenings of balansstate vir onderskeie soorte versekeringsbesigheid kan voorskryf en kan bepaal dat inligting of dokumente verstrek moet word in verband met 'n aangeleentheid wat bedoelde rekenings of bedoelde **[balansstaat]** balansstate raak, en verskillende vereistes vir binnelandse versekeraars en buitelandse versekeraars kan voorskryf.".

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Amendment of section 12 of Act 27 of 1943, as amended by section 10 of Act 73 of 1951 and substituted by section 9 of Act 10 of 1965

5. Section 12 of the Insurance Act, 1943, is hereby amended by—

(a) the substitution in subsection (1) for the words preceding the proviso, and paragraph *(a)* of the proviso, of the following words and paragraph, respectively:

"(1) Every domestic insurer who, on the date of commencement of this Act, is carrying on either within or outside the Republic any long term insurance business shall, within a period of six months as from the expiration of his financial year relating to the said insurance business during which this Act came into operation, and thereafter from time to time within a period of **[six]** four months as from the expiration of every third subsequent financial year, prepare and furnish to the registrar a statement of all his liabilities in respect of such business, calculated as at the end of such financial year: Provided that—

(a) if such an insurer furnished to the Treasury in respect of the said insurance business a statement in accordance with the provisions of the Fourth or Fifth Schedule to the Insurance Act, 1923, in respect of a period which ended less than three years before the expiration of the first-mentioned financial year, he shall prepare and furnish such a statement of his liabilities, as aforesaid, not later than a date six months after the expiration of his third financial year which ended subsequent to the termination of the period in respect whereof the said statement under the said Fourth or Fifth Schedule was furnished, and thereafter from time to time within a period of **[six]** four months as from the expiration of every third subsequent financial year;"; and

(b) by the substitution for subsections (2) and (3) of the following subsections, respectively:

"(2) Every domestic insurer who, after the commencement of this Act, commences to carry on either within or outside the Republic any long term insurance business shall within a period of **[six]** four months as from the termination of his third financial year relating to the said business, and thereafter from time to time within a period of **[six]** four months as from the expiration of every third subsequent financial year, prepare and furnish to the registrar such a statement as is mentioned in subsection (1): Provided that paragraphs *(b)* and *(c)* of the proviso to subsection (1) shall also apply in connection with this subsection.

(3) Every domestic insurer who carries on either within or outside the Republic any short term insurance business or compulsory third party insurance business shall within a period of **[six]** four months as from the expiration of every financial year of the said business prepare and furnish to the registrar such a statement as is mentioned in subsection (1) in respect of the class of short term insurance business or the compulsory third party insurance business which he so carries on.".

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 4 of Act 101 of 1976

6. Section 13 of the Insurance Act, 1943, is hereby amended by the substitution for subparagraphs (ii) and (iiA) of paragraph *(a)* of the following subparagraphs, respectively:

"(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]** in accordance with the method prescribed by

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Wysiging van artikel 12 van Wet 27 van 1943, soos gewysig deur artikel 10 van Wet 73 van 1951 en vervang deur artikel 9 van Wet 10 van 1965

5. Artikel 12 van die Versekeringswet, 1943, word hierby gewysig—

(a) deur in subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan, en paragraaf *(a)* van die voorbehoudsbepaling, deur onderskeidelik die volgende woorde en paragraaf te vervang:

"(1) Elke binnelandse versekeraar wat op die dag van inwerkingtreding van hierdie Wet langtermynversekeringsbesigheid dryf, hetsy in of buite die Republiek, moet binne 'n tydperk van ses maande vanaf die verstryking van sy boekjaar vir bedoelde versekeringsbesigheid waarin hierdie Wet in werking getree het, en daarna van tyd tot tyd binne 'n tydperk van **[ses]** vier maande vanaf die verstryking van elke derde daaropvolgende boekjaar, 'n opgaaf van al sy verbintenisse in verband met daardie besigheid, soos aan die end van bedoelde boekjaar bereken, opmaak en aan die registrateur verstrek: Met dien verstande dat—

(a) as so 'n versekeraar met betrekking tot bedoelde versekeringsbeleid 'n opgaaf aan die Tesourie verstrek het volgens die bepalings van die Vierde of Vyfde Bylae by die "Verzekeringswet, 1923", met betrekking tot 'n tydperk wat verstryk het minder as drie jaar voor die einde van die eerste hierbo vermelde boekjaar, hy so 'n opgaaf van sy verbintenisse as voormeld, moet opmaak en verstrek nie later nie dan op 'n dag ses maande na die verstryking van sy derde boekjaar wat geëindig het na die verstryking van die tydperk ten opsigte waarvan bedoelde opgaaf ingevolge bedoelde Vierde of Vyfde Bylae verstrek is, en daarna van tyd tot tyd binne 'n tydperk van **[ses]** vier maande vanaf die verstryking van elke derde daaropvolgende boekjaar;"; en

(b) deur subartikels (2) en (3) deur onderskeidelik die volgende subartikels te vervang:

"(2) Elke binnelandse versekeraar wat na die inwerkingtreding van hierdie Wet begin om langtermynversekeringsbesigheid te dryf, hetsy in of buite die Republiek, moet binne 'n tydperk van **[ses]** vier maande vanaf die verstryking van sy derde boekjaar wat op daardie besigheid betrekking het en daarna van tyd tot tyd binne 'n tydperk van **[ses]** vier maande vanaf die verstryking van elke derde daaropvolgende boekjaar, so 'n opgaaf as in subartikel (1) vermeld, opmaak en aan die registrateur verstrek: Met dien verstande dat paragrawe *(b)* en *(c)* van die voorbehoudsbepaling van subartikel (1) ook in verband met hierdie subartikel van toepassing is.

(3) Elke binnelandse versekeraar wat in of buite die Republiek korttermynversekeringsbesigheid of verpligte derdeparty-versekeringsbesigheid dryf, moet binne 'n tydperk van **[ses]** vier maande vanaf die verstryking van elke boekjaar van daardie besigheid 'n opgawe soos in subartikel (1) bedoel met betrekking tot die soort korttermynversekeringsbesigheid of die verpligte derdeparty-versekeringsbesigheid wat hy aldus dryf, opmaak en aan die registrateur verstrek.".

Wysiging van artikel 13 van Wet 27 van 1943, soos vervang deur artikel 11 van Wet 73 van 1951 en gewysig deur artikel 10 van Wet 10 van 1965, artikel 2 van Wet 41 van 1966 en artikel 4 van Wet 101 van 1976

6. Artikel 13 van die Versekeringswet, 1943, word hierby gewysig deur subparagrawe (ii) en (iiA) van paragraaf *(a)* deur onderskeidelik die volgende subparagrawe te vervang:

"(ii) die bedrag, soos beraam deur die versekeraar, van sy verbintenisse ten opsigte van vorderings kragtens polisse wat voor die datum van verstryking van die in artikel 12 bedoelde boekjaar aan die versekeraar of 'n agent van die versekeraar bekend gemaak was, maar nie voor dié datum deur die versekeraar betaal was nie **[en soos deur die registrateur goedgekeur wat betref korttermynversekeringsbesigheid of, by ontstentenis van sodanige goedkeuring, soos beraam deur die registrateur wat sodanige besigheid betref]**;

(iiA) as die versekeraar enige korttermynversekeringsbesigheid gedryf het, die bedrag, soos beraam **[deur die versekeraar]** in ooreenstemming met die

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regulation, 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 **[or]** 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]**:

Provided that if in the opinion of the registrar circumstances require otherwise in the case of a particular insurer the registrar may approve a different and more suitable method of estimating such amount.".

Insertion of section 13A in Act 27 of 1943

7. The following section is hereby inserted in the Insurance Act, 1943, after section 13:

"Contingency reserve which insurer carrying on short term insurance business shall maintain

13A. (1) An insurer carrying on short term insurance business shall maintain a reserve at the end of his fifth financial year following the date of commencement of the Second Financial Institutions Amendment Act, 1989, in respect of his short term insurance business, which reserve shall, save for subsections (3), (4) and (5), at the end of the fifth financial year not be less than 10 per cent or another prescribed percentage of the greater of his premium income after deduction of approved reinsurances referred to in paragraph *(a)* of the definition of "approved reinsurances" in subsection (1) of section 1 in the previous financial year or the expired portion of the current financial year.

(2) An insurer shall in respect of a reserve referred to in subsection (1) reserve an amount of 20 per cent at the end of the first financial year, 40 per cent at the end of the second financial year, 60 per cent at the end of the third financial year, 80 per cent at the end of the fourth financial year and 100 per cent at the end of the fifth financial year following the date of commencement of the Second Financial Institutions Amendment Act, 1989.

(3) The reserve referred to in subsection (1) may be drawn upon only with the approval of the registrar and if the registrar is satisfied that the contingencies in respect of the short term insurance business carried on by such insurer justify such a withdrawal.

(4) If the reserve referred to in subsection (1) is exhausted after the deduction of a withdrawal referred to in subsection (3) and the insurer is not able to comply with section 17 (4) *(a)* or 18 (4), the registrar may forthwith act against the insurer in terms of section 30.

(5) In the case of a contingency referred to in subsection (3) and where subsection (4) is not applicable, the insurer shall submit a business plan to the registrar, together with the revenue accounts referred to in section 11, in which is set out the proposed action to reinstate the reserve referred to in subsection (1) to the level referred to in subsection (1) within the three years following the financial year in which a withdrawal referred to in subsection (3) has been made.

(6) The registrar may, if he deems it fit, approve or reject a business plan submitted to him in terms of subsection (5) or refer it back to the insurer with proposals to amend it before his approval.

(7) The registrar may rule that a business plan referred to in subsection (5) shall set out steps to ensure that the gross premium income an insurer receives for the purpose of such business plan in respect of his business shall not exceed an amount determined by the registrar.

(8) If an insurer, after a withdrawal referred to in subsection (3), cannot comply with the provisions of subsection (1) and section 17 (4) *(a)* or 18 (4) at the end of the third subsequent financial year, the registrar may forthwith act against such insurer in terms of section 30.

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metode soos by regulasie voorgeskryf, van sy verbintenisse met betrekking tot vorderings kragtens polisse uitgereik ten opsigte van sodanige besigheid wat ontstaan het maar nie aan die versekeraar of 'n agent van die versekeraar bekend gemaak was nie voor die datum vermeld in subparagraaf (ii) **[en soos deur die registrateur goedgekeur of, by ontstentenis van sodanige goedkeuring, soos beraam deur die registrateur;]**:

Met dien verstande dat indien omstandighede volgens die registrateur se oordeel anders vereis in die geval van 'n besondere versekeraar die registrateur 'n ander en meer gepaste metode van beraming van sodanige bedrag mag goedkeur.".

Invoeging van artikel 13A in Wet 27 van 1943

7. Die volgende artikel word hierby in die Versekeringswet, 1943, na artikel 13 ingevoeg:

"Gebeurlikheidsreserwe wat versekeraar wat korttermynversekeringsbesigheid dryf in stand moet hou

13A. (1) 'n Versekeraar wat korttermynversekeringsbesigheid dryf, moet ten opsigte van daardie besigheid 'n reserwe in stand hou aan die einde van sy vyfde boekjaar wat volg op die datum van inwerkingtreding van die Tweede Wysigingswet op Finansiële Instellings, 1989, welke reserwe, behoudens subartikels (3), (4) en (5), na die einde van die vyfde boekjaar, nie minder moet bedra nie as 10 persent of 'n ander voorgeskrewe persentasie van die grootste van sy inkomste uit premies, na aftrekking van goedgekeurde herversekerings bedoel in paragraaf *(a)* van die omskrywing van "goedgekeurde herversekerings" in subartikel (1) van artikel 1, in die vorige boekjaar of die verstreke gedeelte van die huidige boekjaar.

(2) 'n Versekeraar moet ten opsigte van 'n reserwe bedoel in subartikel (1) 'n bedrag van 20 persent reserveer aan die einde van die eerste boekjaar, 40 persent aan die einde van die tweede boekjaar, 60 persent aan die einde van die derde boekjaar, 80 persent aan die einde van die vierde boekjaar en 100 persent aan die einde van die vyfde boekjaar wat volg op die datum van inwerkingtreding van die Tweede Wysigingswet op Finansiële Instellings, 1989.

(3) Daar word slegs met die goedkeuring van die registrateur 'n onttrekking uit die in subartikel (1) bedoelde reserwe gemaak en indien die registrateur oortuig is dat die gebeurlikhede ten opsigte van die korttermynversekeringsbesigheid deur sodanige versekeraar gedryf, so 'n onttrekking regverdig.

(4) Indien die reserwe in subartikel (1) bedoel, uitgeput is na 'n in subartikel (3) bedoelde onttrekking en die versekeraar nie in staat is om aan artikel 17 (4) *(a)* of 18 (4) te voldoen nie, kan die registrateur onverwyld ingevolge artikel 30 teen die versekeraar optree.

(5) In die geval van 'n gebeurlikheid in subartikel (3) bedoel en waar subartikel (4) nie van toepassing is nie, moet die versekeraar 'n besigheidsplan aan die registrateur voorlê, tesame met die inkomsterekening in artikel 11 bedoel, waarin die voorgenome optrede uiteengesit word om die in subartikel (1) bedoelde reserwe te herstel na die in subartikel (1) bedoelde vlak binne die drie jaar wat volg op die boekjaar waarin 'n in subartikel (3) bedoelde onttrekking gedoen is.

(6) Die registrateur mag na goeddunke 'n besigheidsplan wat ingevolge subartikel (5) aan hom voorgelê is, goedkeur of verwerp of dit voor sy goedkeuring na die versekeraar terugverwys met voorstelle om dit te wysig.

(7) Die registrateur kan bepaal dat 'n besigheidsplan bedoel in subartikel (5) stappe moet uiteensit om te verseker dat die bruto premie-inkomste wat 'n versekeraar vir die doeleindes van so 'n besigheidsplan ten opsigte van sy besigheid ontvang, nie 'n bedrag deur die registrateur vasgestel, sal oorskry nie.

(8) Indien 'n versekeraar na 'n onttrekking in subartikel (3) bedoel nie in staat is om te voldoen aan die bepalings van subartikel (1) en artikel 17 (4) *(a)* of 18 (4) aan die einde van die derde daaropvolgende boekjaar nie, kan die registrateur onverwyld ingevolge artikel 30 teen die versekeraar optree.

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(9) The amounts in respect of a reserve referred to in subsections (1) and (2) shall be invested in the manner prescribed by the registrar by notice in the *Gazette*.".

Amendment of section 14 of Act 27 of 1943, as amended by section 12 of Act 73 of 1951

8. Section 14 of the Insurance Act, 1943, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Every domestic insurer shall, within a period of **[six]** four months as from the expiration of every financial year of his insurance business, prepare and furnish to the registrar a statement of all assets which he owns in connection with that business drawn up as at the end of such financial year.".

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, section 3 of Act 41 of 1966, section 5 of Act 101 of 1976 and section 2 of Act 50 of 1986

9. Section 15 of the Insurance Act, 1943, is hereby amended by the substitution in paragraph *(d)* for the words preceding subparagraph (i) of the following words:

"*(d)* In respect of any short term insurance business or compulsory third party insurance business, no outstanding premium (irrespective of whether or not it has been debited to an insurance broker or an agent of the insurer) shall be included in the statement **[if at the end of the financial year to which the statement relates and which ends before 1 January 1987, more than six months have elapsed since the date on which such premium became due by the owner of the policy in question or]** if at the end of the financial year to which the statement relates and which ends on or after 1 January **[1987]** 1990, more than **[two months]** seventy days have elapsed since the due date of the premium as contemplated in subsection **[(9)]** (6) of section 20*bis*, and the value of any other outstanding premiums or premiums debited to insurance brokers or agents of the insurer shall be shown at an amount which in the aggregate does not exceed the full amount of such premiums reduced by—".

Amendment of section 16 of Act 27 of 1943, as amended by section 14 of Act 73 of 1951

10. Section 16 of the Insurance Act, 1943, is hereby amended by the substitution in subsections (2) and (3) for the word "six", wherever it occurs, of the word "four".

Amendment of section 17 of Act 27 of 1943, as substituted by section 12 of Act 10 of 1965 and amended by section 4 of Act 41 of 1966, section 2 of Act 91 of 1972, section 6 of Act 101 of 1976, section 3 of Act 94 of 1977, section 2 of Act 80 of 1978, section 4 of Act 103 of 1979, section 2 of Act 36 of 1981, section 1 of Act 82 of 1982, section 4 of Act 86 of 1984 and section 2 of Act 51 of 1988

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

(a) by the substitution for subparagraphs (i) and (ii) of paragraph *(a)* of subsection (4) of the following subparagraphs, respectively:

"(i) **[R200 000]** R3 000 000 or such smaller amount as may be determined by the registrar; or

(ii) such 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 reinsurances referred to in **[subparagraphs (i), (iA) and (iB) of paragraph *(a)* of]** the definition of '**[approved]** admissible reinsurances' in subsection (1) of section 1) in the previous financial year; or

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(9) Die bedrae ten opsigte van 'n reserwe in subartikels (1) en (2) bedoel, moet belê word op die manier wat die registrateur by kennisgewing in die *Staatskoerant* voorskryf.".

Wysiging van artikel 14 van Wet 27 van 1943, soos gewysig deur artikel 12 van Wet 73 van 1951

8. Artikel 14 van die Versekeringswet, 1943 word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Elke binnelandse versekeraar moet binne 'n tydperk van **[ses]** vier maande vanaf die verstryking van elke boekjaar van sy versekeringsbesigheid 'n opgaaf van alle bate wat hy in verband met daardie besigheid besit, bereken op die end van daardie boekjaar, opmaak en aan die registrateur verstrek.".

Wysiging van artikel 15 van Wet 27 van 1943, soos vervang deur artikel 13 van Wet 73 van 1951 en gewysig deur artikel 10 van Wet 79 van 1959, artikel 11 van Wet 10 van 1965, artikel 3 van Wet 41 van 1966, artikel 5 van Wet 101 van 1976 en artikel 2 van Wet 50 van 1986

9. Artikel 15 van die Versekeringswet, 1943, word hierby gewysig deur in paragraaf *(d)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

"*(d)* In die geval van korttermynversekeringsbesigheid of verpligte derdeparty-versekeringsbesigheid word geen uitstaande premie (hetsy dit teen 'n versekeringsmakelaar of 'n agent van die versekeraar gedebiteer is al dan nie) in die opgawe ingesluit nie, **[indien daar aan die end van die boekjaar waarop die opgawe betrekking het en wat voor 1 Januarie 1987 eindig, meer as ses maande verloop het sedert die datum waarop die premie deur die eienaar van die betrokke polis verskuldig geword het, of]** indien daar aan die end van die boekjaar waarop die opgawe betrekking het en wat op of na 1 Januarie **[1987]** 1990 eindig meer as **[twee maande]** sewentig dae verloop het sedert die betaaldatum van die premie soos bedoel in subartikel **[(9)]** (6) van artikel 20*bis*, en word die waarde van ander uitstaande premies of premies wat teen versekeringsmakelaars of agente van die versekeraar gedebiteer is, aangegee teen 'n bedrag in die geheel hoogstens gelyk aan die volle bedrag van bedoelde premies min—".

Wysiging van artikel 16 van Wet 27 van 1943, soos gewysig deur artikel 14 van Wet 73 van 1951

10. Artikel 16 van die Versekeringswet, 1943, word hierby gewysig deur in subartikels (2) en (3) die woord "ses", oral waar dit voorkom, deur die woord "vier" te vervang.

Wysiging van artikel 17 van Wet 27 van 1943, soos vervang deur artikel 12 van Wet 10 van 1965 en gewysig deur artikel 4 van Wet 41 van 1966, artikel 2 van Wet 91 van 1972, artikel 6 van Wet 101 van 1976, artikel 3 van Wet 94 van 1977, artikel 2 van Wet 80 van 1978, artikel 4 van Wet 103 van 1979, artikel 2 van Wet 36 van 1981, artikel 1 van Wet 82 van 1982, artikel 4 van Wet 86 van 1984 en artikel 2 van Wet 51 van 1988

11. Artikel 17 van die Versekeringswet, 1943, word hierby gewysig—

(a) deur subparagrawe (i) en (ii) van paragraaf *(a)* van subartikel (4) deur onderskeidelik die volgende subparagrawe te vervang:

"(i) **[R200 000]** R3 000 000 of sodanige kleiner bedrag deur die registrateur bepaal; of

(ii) sodanige persentasie as wat van tyd tot tyd by regulasie voorgeskryf word van die grootste van die volgende bedrae, te wete—

(aa) sy inkomste uit premies (na aftrekking van herversekerings bedoel in **[subparagrawe (i), (iA) en (iB) van paragraaf *(a)* van]** die omskrywing van '**[goedgekeurde]** toelaatbare herversekerings' in subartikel (1) van artikel 1) in die vorige boekjaar; of

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(bb) his premium income (after deduction of reinsurances referred to in **[subparagraphs (i), (iA) and (iB) of paragraph *(a)* of]** the definition of '**[approved]** admissible reinsurances' in subsection (1) of section 1) in the expired portion of the current financial year;"; and

(b) by the substitution for paragraphs (i) and (ii) of paragraph *(b)* of subsection (4) of the following subparagraphs, respectively:

"(i) **[R200 000]** R3 000 000 or such smaller amount as may be determined by the registrar; or

(ii) such 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 reinsurances referred to in **[subparagraphs (i), (iA) and (iB) of paragraph *(a)* of]** the definition of '**[approved]** admissible reinsurances' in subsection (1) of section 1) 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 reinsurances referred to in **[subparagraphs (i), (iA) and (iB) of paragraph *(a)* of]** the definition of '**[approved]** admissible reinsurances' in subsection (1) of section 1) in respect of the aforementioned business in the expired portion of the current financial year.".

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, section 3 of Act 91 of 1972, section 7 of Act 101 of 1976, section 4 of Act 94 of 1977, section 3 of Act 80 of 1978, section 5 of Act 103 of 1979, section 3 of Act 36 of 1981, section 2 of Act 82 of 1982 and section 5 of Act 86 of 1984

12. Section 18 of the Insurance Act, 1943, is hereby amended by the substitution for paragraphs *(a)* and *(b)* of subsection (4) of the following paragraphs, respectively:

"*(a)* **[R200 000]** R3 000 000 or such smaller amount as may be determined by the registrar; or

(b) such 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 reinsurances referred to in **[subparagraphs (i), (iA) and (iB) of paragraph *(a)* of]** the definition of '**[approved]** admissible reinsurances' in subsection (1) of section 1) 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 reinsurances referred to in **[subparagraphs (i), (iA) and (iB) of paragraph *(a)* of]** the definition of '**[approved]** admissible reinsurances' in subsection (1) of section 1) in respect of the aforementioned business in the expired portion of the current financial year.".

Substitution of section 20*bis* of Act 27 of 1943, as inserted by section 17 of Act 10 of 1965 and amended by section 7 of Act 41 of 1966, section 6 of Act 94 of 1977, section 7 of Act 103 of 1979 and section 3 of Act 50 of 1986

13. The following section is hereby substituted for section 20*bis* of the Insurance Act, 1943:

"Agents to account for premiums to insurers

20*bis*. (1) Subject to the provisions of subsections (2), (3) and (4), no registered insurer shall authorize or permit an agent, broker or other person, not being a registered insurer, to retain or deal with any moneys in respect of premiums received other than in terms of subsection (3) on behalf of such insurer and relating to short term insurance business carried on by such insurer in the Republic: Provided that the provisions of this section are not applicable to a reinsurer or to premiums received in respect of a reinsurance policy.

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(bb) sy inkomste uit premies (na aftrekking van herversekerings bedoel in **[subparagrawe (i), (iA) en (iB) van paragraaf *(a)* van]** die omskrywing van '**[goedgekeurde]** toelaatbare herversekerings' in subartikel (1) van artikel 1) in die verstreke gedeelte van die huidige boekjaar;"; en

(b) deur subparagawe (i) en (ii) van paragraaf *(b)* van subartikel (4) deur onderskeidelik die volgende subparagrawe te vervang:

"(i) **[R200 000]** R3 000 000 of sodanige kleiner bedrag as wat deur die registrateur bepaal word; of

(ii) sodanige persentasie as wat van tyd tot tyd by regulasie voorgeskryf word van die grootste van die volgende bedrae, te wete—

(aa) sy inkomste uit premies (na aftrekking van herversekerings bedoel in **[subparagrawe (i), (iA) en (iB) van paragraaf *(a)* van]** die omskrywing van '**[goedgekeurde]** toelaatbare herversekerings' in subartikel (1) van artikel 1) ten opsigte van sodanige besigheid gedurende die vorige boekjaar deur hom in die Republiek gedryf; of

(bb) sy inkomste uit premies (na aftrekking van herversekerings bedoel in **[subparagrawe (i), (iA) en (iB) van paragraaf *(a)* van]** die omskrywing van '**[goedgekeurde]** toelaatbare herversekerings' in subartikel (1) van artikel 1) ten opsigte van die voormelde besigheid in die verstreke gedeelte van die huidige boekjaar.".

Wysiging van artikel 18 van Wet 27 van 1943, soos vervang deur artikel 13 van Wet 10 van 1965 en gewysig deur artikel 5 van Wet 41 van 1966, artikel 3 van Wet 91 van 1972, artikel 7 van Wet 101 van 1976, artikel 4 van Wet 94 van 1977, artikel 3 van Wet 80 van 1978, artikel 5 van Wet 103 van 1979, artikel 3 van Wet 36 van 1981, artikel 2 van Wet 82 van 1982 en artikel 5 van Wet 86 van 1984

12. Artikel 18 van die Versekeringswet, 1943, word hierby gewysig deur paragrawe *(a)* en *(b)* van subartikel (4) deur onderskeidelik die volgende paragrawe te vervang:

"*(a)* **[R200 000]** R3 000 000 of sodanige kleiner bedrag as wat deur die registrateur bepaal word; of

(b) sodanige persentasie as wat van tyd tot tyd by regulasie voorgeskryf word van die grootste van die volgende bedrae, te wete—

(i) sy inkomste uit premies (na aftrekking van herversekerings bedoel in **[subparagrawe (i), (iA) en (iB) van paragraaf *(a)* van]** die omskrywing van '**[goedgekeurde]** toelaatbare herversekerings' in subartikel (1) van artikel 1) ten opsigte van sodanige besigheid gedurende die vorige boekjaar deur hom in die Republiek gedryf; of

(ii) sy inkomste uit premies (na aftrekking van herversekerings bedoel in **[subparagrawe (i), (iA) en (iB) van paragraaf *(a)* van]** die omskrywing van '**[goedgekeurde]** toelaatbare herversekerings' in subartikel (1) van artikel 1) ten opsigte van voormelde besigheid in die verstreke gedeelte van die huidige boekjaar.".

Vervanging van artikel 20*bis* van Wet 27 van 1943, soos ingevoeg deur artikel 17 van Wet 10 van 1965 en gewysig deur artikel 7 van Wet 41 van 1966, artikel 6 van Wet 94 van 1977, artikel 7 van Wet 103 van 1979 en artikel 3 van Wet 50 van 1986

13. Artikel 20*bis* van die Versekeringswet, 1943, word hierby deur die volgende artikel vervang:

"Agente moet aan versekeraars van premies rekenskap gee

20*bis*. (1) Behoudens die bepalings van subartikels (2), (3) en (4), mag geen geregistreerde versekeraar 'n agent, makelaar of ander persoon wat nie 'n geregistreerde versekeraar is nie, magtig of toelaat om gelde wat ten opsigte van premies ten behoewe van die versekeraar anders as ooreenkomstig subartikel (3) ontvang is en wat betrekking het op korttermynversekeringsbesigheid deur dié versekeraar in die Republiek gedryf, te behou of daarmee te handel nie: Met dien verstande dat die bepalings van hierdie artikel nie van toepassing is op 'n herversekeraar of op premies ten opsigte van 'n herversekeringspolis ontvang nie.

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(2) *(a)* Every such agent, broker or person shall before becoming indebted to any insurer furnish security, within the period prescribed by regulation, for any amount which may become payable by him to insurers in terms of subsection (3), and such security shall be in the form of a guarantee issued by—

(i) an insurer registered to carry on guarantee business in terms of a guarantee facility created by the short term insurance industry;

(ii) the Land and Agricultural Bank of South Africa; or

(iii) a banking institution registered otherwise than provisionally in terms of the Banks Act, 1965 (Act No. 23 of 1965).

(b) Such guarantee shall be in favour of the South African Insurance Association for the benefit of all such insurers and shall be in a form prescribed by regulation and shall be for an amount certified by the auditor of the agent, broker or person concerned to be equal to 20 per cent of the premiums which became due to registered insurers by such agent, broker or person in his last financial year but not less than R10 000 or more than R50 000 000: Provided that the guarantee to be furnished by an agent, broker or person who becomes indebted to any insurer for the first time, shall be based on 20 per cent of a reasonable estimate of premiums which would become due to registered insurers in his first financial year.

(c) If the businesses of two or more agents, brokers or other persons are amalgamated, the provisions of subparagraph *(b)* shall apply *mutatis mutandis* to the amalgamated businesses with respect to the annual premium income of the last financial year and the amount of the guarantee.

(3) Every such agent, broker or person who receives such premiums on behalf of an insurer shall—

(a) close off his records of premium receipts not later than the last day of the month following the month during which the due date of such premiums occurred;

(b) pay the amount of such premiums to the insurer within ten days after closing the records referred to in paragraph *(a)*; and

(c) simultaneously furnish such insurer with a detailed payment bordereau in respect of a payment in terms of paragraph *(b)*.

(4) Any such agent, broker or person may before remitting any premiums in terms of subsection (3) set off any commission due to him by such insurer in respect of such premiums.

(5) Payment of a premium by a policyholder in terms of his insurance policy to an agent, broker or other person referred to in subsection (1) shall be deemed to be specific performance in terms of the policy.

(6) For the purposes of this section—

"deposit premium" means a provisional premium which is agreed upon in the event of it being impossible at the due date to determine the exact premium, and which represents a reasonable estimate of the premium;

"due date", in relation to a premium, means—

(a) in the case of a new policy, the inception date of the policy;

(b) in the case of an existing policy which has been renewed, the renewal date of the policy; and

(c) in the case of a policy endorsement and a declaration in terms of an open marine cargo policy, the first day of the month following the date upon which documentation is issued by the insurer to the policyholder concerned;

"premium" includes a deposit premium.

(7) Notwithstanding the provisions of this section, the Minister may, if he deems it in the interest of policyholders, insurers or intermediaries to

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(2) *(a)* Elke sodanige agent, makelaar of persoon moet voordat hy aan enige versekeraar verskuldig raak, binne die periode by regulasie voorgeskryf sekerheid stel vir enige bedrag wat deur hom aan versekeraars ooreenkomstig subartikel (3) betaalbaar mag word, en sodanige sekerheid moet in die vorm wees van 'n waarborg uitgereik deur—

(i) 'n versekeraar wat geregistreer is om garansiebesigheid te dryf ooreenkomstig 'n waarborgfasiliteit geskep deur die korttermyn-versekeringsbedryf;

(ii) die Land- en Landboubank van Suid-Afrika; of

(iii) 'n bankinstelling wat anders as voorlopig geregistreer is ingevolge die Bankwet, 1965 (Wet No. 23 van 1965).

(b) So 'n waarborg moet ten gunste van die Suid-Afrikaanse Verseke-ringsvereniging en in 'n by regulasie voorgeskrewe vorm ten bate van al die betrokke versekeraars wees, en wel vir 'n bedrag wat volgens die sertifikaat van die betrokke agent, makelaar of persoon se ouditeur gelyk is aan 20 persent van die premies wat deur so 'n agent, makelaar of persoon in sy jongste boekjaar aan geregis-treerde versekeraars verskuldig geword het, maar bedra nie minder as R10 000 of meer as R50 000 000 nie: Met dien verstande dat die waarborg wat deur 'n agent, makelaar of persoon gestel staan te word wat vir die eerste maal aan 'n versekeraar verskuldig geword het, gebaseer moet wees op 20 persent van 'n redelike beraming van premies wat aan geregistreerde versekeraars verskuldig sou word in sy eerste boekjaar.

(c) Indien die besighede van twee of meer agente, makelaars of ander persone saamsmelt, is die bepalings van paragraaf *(b)* ten opsigte van die jaarlikse premie-inkomste van die laaste boekjaar en die bedrag van die waarborg *mutatis mutandis* van toepassing op die besighede wat saamgesmelt het.

(3) Elke sodanige agent, makelaar of persoon wat sodanige premies ten behoewe van 'n versekeraar ontvang, moet—

(a) sy aantekeninge van premie-ontvangste afsluit nie later nie as die laaste dag van die maand wat volg op die maand waartydens die betaaldatum van sodanige premies voorgekom het;

(b) die bedrag van die premies aan die versekeraar betaal binne tien dae na die afsluiting van die aantekeninge in paragraaf *(a)* bedoel; en

(c) gelyktydig so 'n versekeraar voorsien van 'n gespesifiseerde bor-dereau ten opsigte van 'n betaling ingevolge paragraaf *(b)*.

(4) So 'n agent, makelaar of persoon kan, voordat hy enige premies ingevolge subartikel (3) oorbetaal, enige kommissie deur die versekeraar aan hom ten opsigte van sodanige premies verskuldig in rekening bring.

(5) Betaling van 'n premie deur 'n polishouer ingevolge sy verseke-ringspolis aan 'n agent, makelaar of ander persoon in subartikel (1) bedoel, word geag spesifieke nakoming ingevolge die polis te wees.

(6) By die toepassing van hierdie artikel beteken—

'betaaldatum', met betrekking tot 'n premie—

(a) in die geval van 'n nuwe polis, die aanvangsdatum van die polis;

(b) in die geval van 'n bestaande polis wat hernieu is, die hernu-wingsdatum van die polis; en

(c) in die geval van 'n polisendossement en 'n verklaring ooreen-komstig 'n oopdekking-skeepsvragpolis, die eerste dag van die maand wat volg op die datum waarop dokumentasie deur die versekeraar aan die betrokke polishouer uitgereik word;

'deposito-premie' 'n voorlopige premie waarop ooreengekom word in die geval waar dit onmoontlik is om op die betaaldatum van die premie die juiste premie te bepaal en wat 'n redelike skatting van die premie verteenwoordig;

'premie' ook 'n deposito-premie.

(7) Nieteenstaande die bepalings van hierdie artikel kan die Minister, indien hy dit in belang ag van polishouers, versekeraars of tussengangers

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whom this section applies, prescribe by regulation different or additional requirements for the receipt of, retention of, or dealing with, moneys in respect of premiums.".

Insertion of section 25A in Act 27 of 1943

14. The following section is hereby inserted in the Insurance Act, 1943, after section 25:

"Transfer of business to separate company

25A. If a registered insurer which is authorized to carry on long-term insurance business as well as any class of short term insurance business and compulsory third party insurance business wishes to transfer any such business to a company to be registered as an insurer for this purpose as a going concern—

(a) no fees which are payable under any law in respect of the incorporation of such a company will be payable; and

(b) every person in charge of any office in which property or any mortgage, right of ownership or other right is registered in the name of or in favour of the insurer wishing to transfer the business or an appointment of or in favour of such insurer was made or a licence was issued to or in favour of such insurer, shall upon production to him of a certificate in which the registrar states that such a transfer of business is being effected and upon production to him of the title deed, mortgage bond, proof of ownership, deed, certificate, letter of appointment, licence, share certificate, or other document in question, free of charge make such endorsement thereon and such entries in his registers or other books as may be necessary to effect or record the transfer of the property, mortgage, ownership, other right, appointment, licence, or securities in question to the other company to whom the business was transferred.".

Substitution of section 27 of Act 27 of 1943, as substituted by section 5 of Act 50 of 1986

15. The following section is hereby substituted for section 27 of the Insurance Act, 1943:

"Acquisition of shares or other interest to be approved by registrar

27. (1) No acquisition of shares or any other interest in the business of a registered insurer **[amounting to]** resulting in the holding of one-quarter or more of the value of all the shares or other interest in that business, shall be of any force or effect unless that acquisition has previously been approved by the registrar in writing.

(2) Except with the prior written approval of the registrar, no person and his associates shall directly or indirectly acquire control of a registered insurer.

(3) The registrar may approve any acquisition of control by any person and his associates in contravention of subsection (2) or, if he does not so approve, he may give such directions regarding the compulsory disposition of their shareholding or other interest, or the exercising of voting rights, as he deems fit.".

Amendment of section 60 of Act 27 of 1943, as substituted by section 8 of Act 41 of 1966 and amended by section 2 of Act 65 of 1968, section 7 of Act 86 of 1984 and section 7 of Act 106 of 1985

16. Section 60 of the Insurance Act, 1943, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Except with the prior written approval of the registrar, applied for as prescribed by regulation, no person who is deemed for the purposes of

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op wie hierdie artikel van toepassing is, verskillende of bykomende vereistes vir die ontvangs of behoud van, of handeling met, geld ten opsigte van premies by regulasie voorskryf.".

Invoeging van artikel 25A in Wet 27 van 1943

14. Die volgende artikel word hierby in die Versekeringswet, 1943, na artikel 25 ingevoeg:

"Oordrag van besigheid aan afsonderlike maatskappy

25A. Indien 'n geregistreerde versekeraar wat gemagtig is om langtermynversekeringsbesigheid sowel as enige soort korttermynversekeringsbesigheid en verpligte derdeparty-versekeringsbesigheid te dryf enige sodanige besigheid aan 'n ander maatskappy wat vir hierdie doel as versekeraar geregistreer staan te word, as 'n lopende saak wil oordra—

(a) sal geen geld wat kragtens enige wet ten opsigte van die inlywing van so 'n maatskappy betaalbaar is, betaalbaar wees nie; en

(b) moet elke persoon aan die hoof van 'n kantoor waarin goed of 'n verband, eiendomsreg of ander reg in die naam van of ten gunste van die versekeraar wat die besigheid wil oordra, geregistreer is of 'n aanstelling van of deur so 'n versekeraar gedoen is of 'n lisensie aan of ten gunste van so 'n versekeraar uitgereik is, by voorlegging aan hom van 'n sertifikaat waarin die registrateur verklaar dat so 'n oordrag van besigheid ten uitvoer gebring word, en by voorlegging aan hom van die betrokke titelbewys, verbandakte, akte, sertifikaat, aanstellingsbrief, lisensie, effektesertifikaat of ander dokument kosteloos die endossement daarop maak en die inskrywing in sy registers of ander boeke maak wat nodig is om die oordrag van die betrokke goed, verband, ander reg, aanstelling, lisensie of effekte aan die ander maatskappy aan wie die besigheid oorgedra is, te bewerkstellig of aan te teken.".

Vervanging van artikel 27 van Wet 27 van 1943, soos vervang deur artikel 5 van Wet 50 van 1986

15. Artikel 27 van die Versekeringswet, 1943, word hierby deur die volgende artikel vervang:

"Verkryging van aandele of ander belang moet deur registrateur goedgekeur word

27. (1) Geen verkryging van aandele of 'n ander belang in die besigheid van 'n geregistreerde versekeraar wat die hou van 'n kwart of meer **[beloop]** van die waarde van al die aandele of ander belang in daardie besigheid tot gevolg het, is van krag nie, tensy daardie verkryging vooraf skriftelik deur die registrateur goedgekeur is.

(2) Behalwe met die skriftelike goedkeuring van die registrateur vooraf verkry, mag geen persoon en sy geassosieerdes direk of indirek beheer van 'n geregistreerde versekeraar verkry nie.

(3) Die registrateur kan enige verkryging van beheer in stryd met subartikel (2) deur 'n persoon en sy geassosieerdes goedkeur of, indien hy dit nie aldus goedkeur nie, kan hy na goeddunke lasgewings doen met betrekking tot die verpligte vervreemding van hul aandeelhouding of ander belang of die uitoefening van stemregte.".

Wysiging van artikel 60 van Wet 27 van 1943, soos vervang deur artikel 8 van Wet 41 van 1966 en gewysig deur artikel 2 van Wet 65 van 1968 en artikel 7 van Wet 86 van 1984

16. Artikel 60 van die Versekeringswet, 1943, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Behalwe met die skriftelike goedkeuring van die registrateur vooraf verkry, waarvoor aansoek gedoen moet word soos by regulasie voorgeskryf,

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subsection (1) to be carrying on insurance business in the Republic shall effect or renew any insurance business (other than reinsurance business) through a broker at Lloyds which is not underwritten by an underwriter at Lloyds.".

Substitution of section 73*bis* of Act 27 of 1943, as inserted by section 21 of Act 79 of 1959 and amended by section 9 of Act 86 of 1984

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

"Penalty for failure to submit documents or to furnish information or to comply with section 20*bis*

73*bis*. Any person who fails to submit, transmit or furnish to the registrar within any period fixed by or under this Act any statement, report, return or other document or information required by or under this Act to be so submitted, transmitted or furnished, or any insurer, agent, broker or other person referred to in section 20*bis* who fails to comply with any provision of section 20*bis*, shall, irrespective of any criminal action that may have been taken or may be taken against such person under this Act, be liable to pay such penalty (if any) as the registrar may deem fit, but not exceeding R50 for every day after the expiration of such period that he continues so to fail, and the registrar may by action in any competent court recover from such person such penalty or such portion thereof (if any) as he in his discretion considers the circumstances justify him in claiming.".

Amendment of section 76 of Act 27 of 1943, as substituted by section 9 of Act 41 of 1966 and amended by section 13 of Act 101 of 1976, section 11 of Act 86 of 1984 and section 9 of Act 106 of 1985

18. Section 76 of the Insurance Act, 1943, is hereby amended by the insertion after paragraph *(a)* of subsection (1) of the following paragraphs:

"*(a*A) prescribing in respect of the contingent liabilities and liabilities of an insurer that such insurer shall—

(i) keep record of those contingent liabilities and liabilities and the run-off of such contingent liabilities and liabilities in a prescribed format and manner;

(ii) record information separately in respect of his contingent liabilities and his liabilities in the Republic, outside the Republic and in any state the territory of which formerly formed part of the Republic;

(iii) record information separately from his other business in respect of policies the risk of which terminates at the end of each month; and

(iv) record information in respect of his contingent liabilities and liabilities under a class of insurance business separately in respect of particular prescribed risks or subdivisions of a class of insurance business;

*(a*B) prescribing a subdivision for a class of insurance business;".

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, section 26 of Act 39 of 1969 and section 14 of Act 101 of 1976

19. Part II of the Second Schedule to the Insurance Act, 1943, is hereby amended—

(a) by the substitution for section 10 of the following section:

"**10.** The liability on any particular date of an insurer under unmatured policies in any particular class or prescribed subdivision of a class of short term insurance business or in compulsory third party insurance business shall be the amount that the insurer requires to hold to meet claims and expenses arising in connection with those policies after that date, and shall,

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mag niemand wat by die toepassing van subartikel (1) geag word versekeringsbesigheid in die Republiek te dryf, deur 'n makelaar van Lloyds enige versekeringsbesigheid (uitgesonderd herversekeringsbesigheid) aangaan of hernieu nie tensy dit versekering is wat deur 'n versekeraar van Lloyds aangegaan word.".

Vervanging van artikel 73*bis* van Wet 27 van 1943, soos ingevoeg deur artikel 21 van Wet 79 van 1959 en gewysig deur artikel 9 van Wet 86 van 1984

17. Artikel 73*bis* van die Versekeringswet, 1943, word hierby deur die volgende artikel vervang:

"Boete vir versuim om dokumente voor te lê of om inligting te verstrek of aan artikel 20*bis* te voldoen

73*bis*. Iemand wat in gebreke bly om binne enige tydperk deur of kragtens hierdie Wet vasgestel, aan die registrateur enige staat, verslag, opgawe of ander dokument of inligting voor te lê, te stuur of te verstrek waarvan die voorlegging, stuur of verstrekking deur of kragtens hierdie Wet vereis word, of enige versekeraar, agent, makelaar of ander persoon in artikel 20*bis* bedoel wat versuim om aan enige bepaling van artikel 20*bis* te voldoen, is, afgesien van enige strafregtelike stappe wat ingevolge hierdie Wet teen so iemand gedoen is of gedoen kan word, onderhewig aan die boete (indien wel) wat die registrateur goedvind, maar wat hoogstens R50 vir elke dag na die verstryking van daardie tydperk wat hy aanhou om aldus in gebreke te bly, bedra, en die registrateur kan daardie boete of soveel daarvan (indien enigiets) as wat hy na goeddunke in die omstandighede billik ag om te vorder, by aksie in 'n bevoegde hof op so iemand verhaal.".

Wysiging van artikel 76 van Wet 27 van 1943, soos vervang deur artikel 9 van Wet 41 van 1966 en gewysig deur artikel 13 van Wet 101 van 1976, artikel 11 van Wet 86 van 1984 en artikel 9 van Wet 106 van 1985

18. Artikel 76 van die Versekeringswet, 1943, word hierby gewysig deur na paragraaf *(a)* van subartikel (1) die volgende paragrawe in te voeg:

"*(a*A) wat ten opsigte van die voorwaardelike verbintenisse en verbintenisse van 'n versekeraar voorskryf dat so 'n versekeraar—

(i) aantekeninge hou van daardie voorwaardelike verbintenisse en verbintenisse en die afloop daarvan in en op 'n voorgeskrewe vorm en wyse;

(ii) afsonderlike aantekeninge hou ten opsigte van sy voorwaardelike verbintenisse en sy verbintenisse in die Republiek, buite die Republiek en enige staat waarvan die grondgebied voorheen deel van die Republiek uitgemaak het;

(iii) inligting ten opsigte van polisse waarvan die risiko aan die einde van elke maand afloop afsonderlik van sy ander besigheid aanteken; en

(iv) inligting afsonderlik aanteken ten opsigte van sy voorwaardelike verbintenisse en verbintenisse onder 'n klas van versekeringsbesigheid ten opsigte van bepaalde voorgeskrewe risiko's of ondervindings van 'n soort versekeringsbesigheid;

*(a*B) wat 'n onderverdeling vir 'n soort versekeringsbesigheid voorskryf;".

Wysiging van Tweede Bylae by Wet 27 van 1943, soos vervang deur artikel 45 van Wet 73 van 1951 en gewysig deur artikel 35 van Wet 10 van 1965, artikel 26 van Wet 39 van 1969 en artikel 14 van Wet 101 van 1976

19. Deel II van die Tweede Bylae by die Versekeringswet, 1943, word hierby gewysig—

(a) deur artikel 10 deur die volgende artikel te vervang:

"**10.** Die verbintenis van 'n versekeraar op een of ander bepaalde datum kragtens nog lopende polisse in een of ander bepaalde soort of onderverdeling van 'n soort korttermynversekeringsbesigheid of in verpligte derde-party-versekeringsbesigheid is die bedrag wat die versekeraar moet besit om eise en uitgawes te dek wat na daardie datum in verband met daardie

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subject to the provisions of section *twelve*, be deemed to be the amount arrived at by means of a calculation as follows:

(a) The amount of the premium to which the insurer was entitled under each policy (after deducting the amount of any refund of premium, discount or other allowance made to the owner of the policy in his capacity as owner, but without making any deduction in respect of commission, brokerage or other remuneration to any insurance broker or to any agent of the insurer) **[shall be reduced by such a proportion thereof, not exceeding 20 per cent, as may in the opinion of the registrar properly represent the expenses incurred by the insurer in conducting the class or kind of insurance business in question]** shall be reduced by the deduction of approved reinsurances.

(aA) The amount computed in accordance with paragraph *(a)* shall be reduced by such a portion thereof as represents the actual costs paid in respect of commission, brokerage or other remuneration to any insurance broker, other insurer or to any agent of the insurer, but not exceeding any maximum consideration prescribed under section 23A of the Act or other percentage, as may in the opinion of the registrar properly represent the expenses incurred by the insurer in conducting the class or subdivision of a class or kind of insurance business in question.

(b) There shall be deducted from the amount computed in accordance with the provisions of **[paragraph]** paragraphs *(a)* and *(aA)* such an amount as bears the same ratio thereto as the expired part of the insurance period covered by such premium bears to the whole of the said period.

(c) (i) For the purposes of this section—

'claims paid' means claims paid in the current financial year less proportional and non-proportional reinsurance recoveries;

'closing shareholders' funds' means shareholders' funds at the end of the current financial year of an insurer;

'closing technical reserves' means the amount referred to in subparagraphs (i), (ii) and (iiA) of paragraph *(a)* of section 13 and subsections (1) and (2) of section 13A of the Act to be provided by an insurer at the end of the current financial year as shown in the balance sheet referred to in section 11 (1) *(c)* of the Act;

'commission' means the difference between commission incurred and reinsurance commission earned in the current financial year;

'investment income' means interest, dividends and rent earned, excluding capital gains and losses, both realized and unrealized, before deduction of taxation, in the current financial year;

'investment income on technical reserves' means the product of investment income and the ratio which the sum of opening and closing technical reserves bears to the sum of opening and closing technical reserves plus opening and closing shareholders' funds;

'management expenses' means expenses of management, excluding dividends and taxation paid and payable in the current financial year;

'opening shareholders' funds' means shareholders' funds at the end of the previous financial year of an insurer;

'opening technical reserves' means the amounts referred to in subparagraphs (i), (ii) and (iiA) of paragraph *(a)* of section 13 and subsections (1) and (2) of section 13A of the Act to be provided by an insurer at the end of the previous financial year as shown in the balance sheet referred to in paragraph *(c)* of subsection (1) of section 11 of the Act;

'operating loss' means the difference between opening technical reserves, written premium and investment income on technical reserves in the current financial year on the one hand and closing technical reserves, claims paid, commission and man-

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polisse ontstaan en word, behoudens die bepalings van artikel *twaalf*, geag die bedrag te wees wat op die volgende wyse bereken word:

(a) Die bedrag van die premie waarop die versekeraar kragtens elke polis geregtig was (na aftrekking van die bedrag van terugbetaalbare premies, diskonto of ander korting aan die eienaar van die polis in sy hoedanigheid as eienaar toegestaan, maar sonder aftrekking van enige bedrag ten opsigte van kommissie, makelaarsloon of ander vergoeding aan 'n versekeringsmakelaar of aan 'n agent van die versekeraar) **[moet met so 'n persentasie daarvan, maar hoogstens 20 persent, verminder word as wat volgens die registrateur se oordeel 'n behoorlike weergawe is van die koste deur die versekeraar aangegaan om die betrokke soort of tipe versekeringsbesigheid te dryf]**, moet verminder word deur die aftrekking van goedgekeurde herversekerings.

(aA) Die bedrag in ooreenstemming met paragraaf *(a)* bereken, moet verminder word met so 'n gedeelte daarvan as wat die werklike koste verteenwoordig wat ten opsigte van kommissie, makelaarsloon of ander vergoeding betaal is aan enige versekeringsmakelaar, ander versekeraar of enige agent van die versekeraar, maar wat nie enige maksimum vergoeding kragtens artikel 23A van die Wet voorgeskryf of ander persentasie as wat volgens die registrateur se oordeel 'n behoorlike weergawe is van die koste deur die versekeraar aangegaan om die betrokke soort of onderverdeling van 'n soort of tipe versekeringsbesigheid te dryf, oorskry nie.

(b) Van die bedrag ooreenkomstig **[paragraaf]** paragrawe *(a)* en *(aA)* bereken, word 'n bedrag afgetrek wat in dieselfde verhouding tot daardie bedrag staan as die verhouding waarin die verstreke deel van die versekeringstydperk deur so 'n premie gedek tot die hele bedoelde tydperk staan.

(c) (i) Vir die doeleindes van hierdie artikel beteken—

'aandeelhouersfondse'—

(i) opbetaalde kapitaal met inbegrip van enige kapitaalaflossingsreserwefonds;
(ii) aandelepremie;
(iii) nie-verdeelbare reserwes;
(iv) verdeelbare reserwes;
(v) algemene reserwe; en
(vi) onaangewende inkomste,

soos getoon in die balansstaat bedoel in artikel 11 (1) *(c)* van die Wet;

'bedryfsverlies' die verskil tussen die openings- tegniese reserwes, onderskryfde premie en beleggingsinkomste op tegniese reserwes in die huidige boekjaar aan die een kant en sluitings-tegniese reserwes, eise betaal, kommissie en bestuurskoste in die huidige boekjaar aan die ander kant, waar sodanige verskil 'n negatiewe syfer tot gevolg het;

'bedryfswins' die verskil tussen openings- tegniese reserwes, onderskryfde premie en beleggingsinkomste op tegniese reserwes in die huidige boekjaar aan die een kant en sluitings-tegniese reserwes, eise betaal, kommissie en bestuurskoste in die huidige boekjaar aan die ander kant, waar sodanige verskil 'n positiewe syfer tot gevolg het;

'beleggingsinkomste' rente, dividende en huurgelde verdien, met uitsondering van gerealiseerde en ongerealiseerde kapitaalwinste en -verliese, voor aftrekking van belasting, in die huidige boekjaar;

'beleggingsinkomste op tegniese reserwes' die produk van beleggingsinkomste en die verhouding waarin die som van openings- en sluitings- tegniese reserwes staan tot die som van openings- en sluitings- tegniese reserwes plus openings- en sluitings-aandeelhouersfondse;

'bestuurskoste' koste van bestuur, met uitsluiting van dividende en belasting betaal en betaalbaar in die huidige boekjaar;

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agement expenses in the current financial year on the other hand, where such difference results in a negative figure;

'operating profit' means the difference between opening technical reserves, written premium and investment income on technical reserves in the current financial year on the one hand and closing technical reserves, claims paid, commission and management expenses in the current financial year on the other hand, where such difference results in a positive figure;

'shareholders' funds' means—

(i) paid-up capital, including any capital redemption reserve fund;

(ii) share premium;

(iii) non-distributable reserves;

(iv) distributable reserves;

(v) general reserve; and

(vi) retained income,

as shown in the balance sheet referred to in section 11 (1) *(c)* of the Act; and

'written premium' means premiums written in the current financial year less proportional and non-proportional reinsurances paid and payable.

(ii) If an insurer incurs an operating loss in a particular class or prescribed subdivision of a class of insurance business during a financial year in the conduct of his short term insurance business which is not attributable to an event referred to in section 13A (3) of the Act, the insurer shall, in conjunction with the auditor, consider whether—

(aa) the amount calculated in paragraph *(b)* is adequate to defray the possible cost of claims in connection with that business; or

(bb) sufficient operating profits have been earned in another class or subdivision of a class of short-term insurance business to cover the operating loss incurred in that particular class or subdivision of a class of short term insurance business.

(iii) In the event of it being found that the amounts referred to in subparagraph *(aa)* or *(bb)* are insufficient, the insurer must increase the amount calculated in paragraph *(b)* by an amount determined by the insurer in conjunction with the auditor.";

(b) by the deletion of section 11; and

(c) by the substitution for section 12 of the following section:

"**12.** Notwithstanding the provisions of **[sections]** section *ten* **[***and eleven***]**, the registrar may authorize or direct an insurer in writing to adopt for the purpose of calculating his net liabilities under all unmatured policies in any particular class of insurance business or part thereof, **[such stricter]** a different and more suitable basis or method which in the opinion of the registrar places a proper value upon such liabilities, and the insurer shall thereupon adopt no other basis or method in calculating such liabilities without the consent in writing of the registrar.".

Amendment of section 1 of Act 24 of 1956, as amended by section 21 of Act 101 of 1976, section 9 of Act 94 of 1977, section 10 of Act 80 of 1978, section 38 of Act 99 of 1980 and section 3 of Act 51 of 1988

20. Section 1 of the Pension Funds Act, 1956, is hereby amended by the substitution for the definition of "dependant" of the following definition:

"'dependant', in relation to a member, means—

(a) a person in respect of whom the member is legally liable for maintenance;

(b) a person in respect of whom the member is not legally liable for maintenance, if such person—

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'eise betaal' eise betaal in die huidige boekjaar min proporsionele en nie-proporsionele herversekering-verhaalbares;

'kommissie' die verskil tussen kommissie aangegaan en herversekeringskommissie verdien in die huidige boekjaar;

'onderskryfde premie' premies onderskryf in die huidige boekjaar min proporsionele en nie-proporsionele herversekering betaal en betaalbaar;

'openingsaandeelhouersfondse' aandeelhouersfondse aan die einde van die vorige boekjaar van 'n versekeraar;

'openings- tegniese reserwes' die bedrae bedoel in subparagrawe (i), (ii) en (iiA) van paragraaf *(a)* van artikel 13 en subartikels (1) en (2) van artikel 13A van die Wet wat deur 'n versekeraar voorsien moet word aan die einde van die vorige boekjaar soos getoon in die balansstaat bedoel in artikel 11 (1) *(c)* van die Wet;

'sluitingsaandeelhouersfondse' aandeelhouersfondse aan die einde van die huidige boekjaar van 'n versekeraar; en

'sluitings- tegniese reserwes' die bedrae bedoel in subparagrawe (i), (ii) en (iiA) van paragraaf *(a)* van artikel 13 en subartikels (1) en (2) van artikel 13A van die Wet wat deur 'n versekeraar voorsien moet word aan die einde van die huidige boekjaar soos getoon in die balansstaat bedoel in artikel 11 (1) *(c)* van die Wet.

(ii) Indien 'n versekeraar 'n onderskrywingsverlies ly in 'n besondere soort of voorgeskrewe onderverdeling van 'n soort versekeringsbesigheid gedurende 'n boekjaar met die dryf van sy korttermynversekeringsbesigheid wat nie toeskryfbaar is aan 'n gebeurtenis bedoel in artikel 13A (3) van die Wet nie, moet die versekeraar in oorleg met die ouditeur oorweeg of—

(aa) die bedrag in paragraaf *(b)* bereken voldoende is om die moontlike koste en eise in verband met daardie besigheid te bestry; of

(bb) genoeg bedryfswinste in 'n ander soort of onderverdeling van 'n soort korttermynversekeringsbesigheid verdien is om die bedryfsverlies te dek wat in daardie besondere soort of onderverdeling van 'n soort korttermynversekeringsbesigheid gely is.

(iii) Ingeval daar gevind word dat die bedrae in subparagrawe *(aa)* of *(bb)* bedoel onvoldoende is, moet die versekeraar die bedrag in paragraaf *(b)* bereken, vermeerder met 'n bedrag deur die versekeraar bepaal in oorleg met die ouditeur.";

(b) deur artikel 11 te skrap; en

(c) deur artikel 12 deur die volgende artikel te vervang:

"**12.** Ondanks die bepalings van **[artikels]** artikel *tien* **[en *elf*]**, kan die registrateur 'n versekeraar skriftelik magtig of gelas om by die berekening van sy netto verbintenisse kragtens alle nog lopende polisse in 'n besondere soort versekeringsbesigheid of onderdeel daarvan, **[so 'n strenger]** 'n ander en meer gepaste grondslag of metode toe te pas **[as]** wat volgens die registrateur se oordeel 'n behoorlike waarde op daardie verbintenisse stel, en die versekeraar pas daarop sonder skriftelike toestemming van die registrateur geen ander grondslag of metode by die berekening van bedoelde verbintenisse toe nie.".

Wysiging van artikel 1 van Wet 24 van 1956, soos gewysig deur artikel 21 van Wet 101 van 1976, artikel 9 van Wet 94 van 1977, artikel 10 van Wet 80 van 1978, artikel 38 van Wet 99 van 1980 en artikel 3 van Wet 51 van 1988

20. Artikel 1 van die Wet op Pensioenfondse, 1956, word hierby gewysig deur die omskrywing van "afhanklike" deur die volgende omskrywing te vervang:

"'afhanklike', met betrekking tot 'n lid—

(a) iemand ten opsigte van wie die lid regtens vir onderhoud aanspreeklik is;

(b) iemand ten opsigte van wie die lid nie regtens vir onderhoud aanspreeklik is nie, indien so iemand—

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(i) was, in the opinion of the person managing the business of the fund, upon the death of the member in fact dependent on the member for maintenance; **[or**

(ii) a child or descendant of a child of the member or the spouse of such child or descendant;]

(ii) is the spouse of the member, including a party to a customary union according to Black law and custom or to a union recognized as a marriage under the tenets of any Asiatic religion;

(c) a person in respect of whom the member would have become legally liable for maintenance, had the member not died;".

Amendment of section 37C of Act 24 of 1956, as inserted by section 24 of Act 101 of 1976, substituted by section 41 of Act 99 of 1980 and amended by section 6 of Act 51 of 1988

21. Section 37C of the Pension Funds Act, 1956, is hereby amended by the substitution for paragraphs *(b)*, *(b*A*)* and *(c)* of the following paragraphs, respectively:

"*(b)* If the fund does not become aware of or cannot trace any dependant of the member within twelve months of the death of the member, and the member has designated in writing to the fund a nominee who is not a dependant of the member, to receive the benefit or such portion of the benefit as is specified by the member in writing to the fund, the benefit or such portion of the benefit shall be paid to such nominee: Provided that where the aggregate amount of the debts in the estate of the member exceeds the aggregate amount of the assets in his estate, so much of the benefit as is equal to the difference between such aggregate amount of debts and such aggregate amount of assets shall be paid into the estate and the balance of such benefit or the balance of such portion of the benefit as specified by the member in writing to the fund shall be paid to the nominee.

*(b*A*)* If a member has a dependant and the member has also designated in writing to the fund a nominee to receive the benefit or such portion of the benefit as is specified by the member in writing to the fund, the fund shall within twelve months of the death of such member pay the benefit or such portion thereof to such dependant or nominee in such proportions as the person managing the business of the fund may deem equitable: Provided that this paragraph shall only apply to the designation of a nominee after the coming into operation of this paragraph.

(c) If the fund does not become aware of or cannot trace any dependant of the member within twelve months of the death of the member and if the member has not designated a nominee or if the member has designated a nominee to receive a portion of the benefit in writing to the fund, the benefit or the remaining portion of the benefit after payment to the designated nominee, shall be paid into the estate of the member or, if no inventory in respect of the member has been received by the Master of the Supreme Court in terms of section 9 of the Estates Act, 1965 (Act No. 66 of 1965), into the Guardian's Fund.".

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

22. Section 3 of the Friendly Societies Act, 1956, is hereby amended 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 Labour Relations Act, 1956 (Act No. 28 of 1956), except that such society shall from time to

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(i) by die afsterwe van die lid, na die oordeel van die persoon wat die besigheid van die fonds bestuur, inderdaad van die lid vir onderhoud afhanklik was; **[of**

(ii) 'n kind of afstammeling van 'n kind van die lid of die eggenote of eggenoot van so 'n kind of afstammeling is;]

(ii) die eggenote of eggenoot van die lid is, met inbegrip van 'n party by 'n gewoontehuwelik volgens Swart reg en gewoonte of by 'n verbintenis wat volgens die leerstellings van 'n Asiatiese godsdiens as 'n huwelik erken word;

(c) iemand ten opsigte van wie die lid regtens vir onderhoud aanspreeklik sou geword het indien die lid nie gesterf het nie;".

Wysiging van artikel 37C van Wet 24 van 1956, soos ingevoeg deur artikel 24 van Wet 101 van 1976, vervang deur artikel 41 van Wet 99 van 1980 en gewysig deur artikel 6 van Wet 51 van 1988

21. Artikel 37C van die Wet op Pensioenfondse, 1956, word hierby gewysig deur paragrawe *(b)*, *(b*A*)* en *(c)* deur onderskeidelik die volgende paragrawe te vervang:

"*(b)* Indien die fonds nie binne twaalf maande na die dood van die lid van 'n afhanklike van die lid te wete kom of 'n afhanklike van die lid opspoor nie, en die lid 'n benoemde wat nie 'n afhanklike van die lid is nie, skriftelik by die fonds aangewys het om die voordeel of so 'n gedeelte van die voordeel as wat die lid uitdruklik skriftelik aan die fonds meegedeel het, te ontvang, word die voordeel of so 'n gedeelte van die voordeel aan sodanige benoemde betaal: Met dien verstande dat waar die totale bedrag van die skulde in die boedel van die lid die totale bedrag van die bates in sy boedel te bowe gaan, soveel van die voordeel as wat gelyk is aan die verskil tussen bedoelde totale bedrag van skulde en bedoelde totale bedrag van bates in die boedel inbetaal word en die balans van bedoelde voordeel of die balans van so 'n gedeelte van die voordeel as wat die lid uitdruklik skriftelik aan die fonds meegedeel het, aan die benoemde betaal word.

*(b*A*)* Indien 'n lid 'n afhanklike het en die lid ook 'n benoemde skriftelik by die fonds aangewys het om die voordeel of so 'n gedeelte van die voordeel wat die lid skriftelik aan die fonds vermeld het, te ontvang, moet die fonds daardie voordeel of gedeelte daarvan binne twaalf maande na die dood van die lid aan sodanige afhanklike of benoemde betaal in dié verhouding wat die persoon wat die besigheid van die fonds bestuur, billik ag: Met dien verstande dat hierdie paragraaf slegs van toepassing is op die aanwysing van 'n benoemde wat gedoen is na die inwerkingtreding van hierdie paragraaf.

(c) Indien die fonds nie binne twaalf maande na die dood van die lid van 'n afhanklike van die lid te wete kom of 'n afhanklike van die lid opspoor nie, en indien die lid nie 'n benoemde aangewys het nie of as die lid 'n benoemde aangewys het om 'n gedeelte van die voordeel wat die lid uitdruklik aan die fonds meegedeel het, te ontvang, word die voordeel of die oorblywende gedeelte van die voordeel na betaling van die benoemde in die boedel van die lid gestort of, indien daar nie ten opsigte van die lid 'n inventaris ingevolge artikel 9 van die Boedelwet, 1965 (Wet No. 66 van 1965), deur die Meester van die Hooggeregshof ontvang is nie, in die Voogdyfonds gestort.".

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

22. Artikel 3 van die Wet op Onderlinge Hulpverenigings, 1956, word hierby gewysig 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 Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), behalwe dat so 'n vereniging van tyd tot tyd

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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.".

Amendment of section 2 of Act 38 of 1984

23. Section 2 of the Inspection of Financial Institutions Act, 1984, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) When he considers it necessary, the registrar may **[with the approval of the Minister]** appoint a person who is not in the full-time employment of the State, as a temporary inspector to assist the registrar or an inspector referred to in subsection (1) with an inspection under this Act of the affairs or any part of the affairs of a financial institution or of any person, partnership or company not registered as a financial institution, or to undertake such an inspection.".

Amendment of section 3 of Act 38 of 1984

24. Section 3 of the Inspection of Financial Institutions Act, 1984, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) **[A person who has applied for an inspection of a financial institution may, with the approval of the Minister, be required by the registrar to furnish such security as the registrar may deem satisfactory and sufficient to defray the remuneration of, and all]** All expenses necessarily incurred by and the remuneration of any temporary inspector who may be appointed under section 2 (2) shall be defrayed by—

(a) a person who has applied for an inspection of a financial institution or any person, partnership or company not registered as a financial institution, and the registrar may require such person to furnish such security as the registrar may deem satisfactory and sufficient to defray such expenses and remuneration; or

(b) the financial institution, or any person, partnership or company not registered as a financial institution, being inspected if the registrar after having considered the inspection report so decides and notwithstanding the provisions of paragraph *(a)*.".

Amendment of section 1 of Act 1 of 1985, as amended by section 14 of Act 50 of 1986 and section 24 of Act 51 of 1988

25. Section 1 of the Stock Exchanges Control Act, 1985, is hereby amended—

(a) by the insertion after the definition of "arbitrage transaction" of the following definition:

"'bank', for the purpose of section 3 (2), (3), (4) and (5), means any bank registered otherwise than provisionally under the Banks Act, 1965 (Act No. 23 of 1965);"; and

(b) by the substitution for paragraph (iii) of the definition of "carrier against shares" of the following paragraph:

"(iii) any mutual building society registered under the Mutual Building Societies Act, 1965 (Act No. 24 of 1965) or a building society registered under the Building Societies Act, 1986 (Act No. 82 of 1986); or".

Amendment of section 3 of Act 1 of 1985, as amended by section 15 of Act 50 of 1986 and section 27 of Act 51 of 1988

26. Section 3 of the Stock Exchanges Control Act, 1985, is hereby amended—

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

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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.".

Wysiging van artikel 2 van Wet 38 van 1984

23. Artikel 2 van die Wet op Inspeksie van Finansiële Instellings, 1984, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Wanneer hy dit nodig ag, kan die registrateur **[met die goedkeuring van die Minister]** 'n persoon wat nie in die heeltydse diens van die Staat is nie, as 'n tydelike inspekteur aanstel om die registrateur of 'n inspekteur in subartikel (1) bedoel met 'n inspeksie kragtens hierdie Wet van die sake of enige deel van die sake van 'n finansiële instelling of van 'n persoon, vennootskap of maatskappy wat nie as 'n finansiële instelling geregistreer is nie, te help of om so 'n inspeksie te onderneem.".

Wysiging van artikel 3 van Wet 38 van 1984

24. Artikel 3 van die Wet op Inspeksie van Finansiële Instellings, 1984, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) **[Iemand wat om 'n inspeksie van 'n finansiële instelling aansoek gedoen het, kan, met die goedkeuring van die Minister, deur die registrateur bevredigend en voldoende beskou, te stel vir die betaling van die besoldiging van, en alle]** Alle uitgawes noodsaaklikerwys aangegaan deur en die vergoeding van 'n tydelike inspekteur wat ingevolge artikel 2 (2) aangestel mag word word gedelg deur—

(a) iemand wat om 'n inspeksie van 'n finansiële instelling, of enige persoon, vennootskap of maatskappy wat nie as 'n finansiële instelling geregistreer is nie, aansoek gedoen het, en die registrateur mag vereis dat so 'n persoon sekerheid stel wat die registrateur bevredigend en voldoende beskou vir die betaling van sodanige uitgawes en besoldiging; of

(b) 'n finansiële instelling, of enige persoon, vennootskap of maatskappy wat nie as 'n finansiële instelling geregistreer is nie, wat geïnspekteer word indien die registrateur na oorweging van die inspeksieverslag en ondanks die bepalings van paragraaf *(a)* so besluit.".

Wysiging van artikel 1 van Wet 1 van 1985, soos gewysig deur artikel 14 van Wet 50 van 1986 en artikel 24 van Wet 51 van 1988

25. Artikel 1 van die Wet op Beheer van Effektebeurse, 1985, word hierby gewysig—

(a) deur na die omskrywing van "arbitrasietransaksie" die volgende omskrywing in te voeg:

"'bank', vir die doeleindes van artikel 3 (2), (3), (4) en (5), enige bank wat anders as voorlopig kragtens die Bankwet, 1965 (Wet No. 23 van 1965), geregistreer is;"; en

(b) deur paragraaf (iii) van die omskrywing van "geldskieter teen aandele" deur die volgende paragraaf te vervang:

"(iii) 'n onderlinge bouvereniging wat kragtens die **[Bouverenigingswet]** Wet op Onderlinge Bouverenigings, 1965 (Wet No. 24 van 1965), of 'n bouvereniging wat kragtens die Wet op Bouverenigings, 1986 (Wet No. 82 van 1986), geregistreer is; of".

Wysiging van artikel 3 van Wet 1 van 1985, soos gewysig deur artikel 15 van Wet 50 van 1986 en artikel 27 van Wet 51 van 1988

26. Artikel 3 van die Wet op Beheer van Effektebeurse, 1985, word hierby gewysig—

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

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"*(c)* he is a **[merchant]** bank **[registered otherwise than provisionally under the Banks Act, 1965 (Act No. 23 of 1965),]** and such buying and selling is effected in accordance with such conditions as the Registrar may from time to time determine, and is restricted to transactions entered into—

(i) to give effect to a reconstruction of a company by the issue of new shares or a take-over by one company of another or a merger of two or more companies; or

(ii) with a view to the taking over of a company as regards control of its management, policy or business; or

(iii) on behalf of or with persons investments of whom are administered by such **[merchant]** bank for remuneration.";

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

"(ii) a **[merchant]** bank **[registered otherwise than provisionally under the Banks Act, 1965]**; or";

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

"*(b)* a **[merchant]** bank **[registered otherwise than provisionally under the Banks Act, 1965]**; or"; and

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

"*(b)* a **[merchant]** bank **[registered othwerwise than provisionally under the Banks Act, 1965]**; or".

Amendment of section 20 of Act 1 of 1985

27. Section 20 of the Stock Exchanges Control Act, 1985, is hereby amended—

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

"*(a)* If the committee of a licensed stock exchange—

(i) terminates the membership of any person;

(ii) under section 16 *(b)* defers or refuses any application for the inclusion of securities in, or under section 17 (1) *(a)* removes securities from, or suspends, for a period which together with any suspension in terms of section 17 (3) exceeds 30 days, the inclusion of securities in the list referred to in section 16 *(a)*, or omits, for a period which together with any omission in terms of section 17 (3) exceeds 30 days, the price of securities from a list of quotations referred to in section 17 (1) *(b)*; **[or]**

(iii) grants an application for the inclusion of securities in the list referred to in section 16 *(a)*, and the Registrar is of opinion that the listing requirements of the stock exchange were not complied with in respect of those securities or that the inclusion of the securities in such list is not in the public interest; or

(iv) makes any finding or takes any action against or in respect of a person regarding, or on the grounds of, an alleged contravention by such person of section 39 (3),

such person, or the person who issued the securities, or the Registrar, as the case may be, shall be entitled to be furnished with the reason for the termination, deferment, refusal, removal, suspension, omission **[or]**, inclusion, finding or action and may appeal against the decision of the committee to the board referred to in section 21, and the board may confirm, vary or set aside the decision, and, whether or not the appeal is withdrawn, make such award as to costs as it may deem fit."; and

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

"(2) In the case of a termination, removal, suspension, **[or]** omission, finding or action referred to in subsection (1), the committee may, subject

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"*(c)* 'n **[aksepbank]** bank is **[wat anders as voorlopig kragtens die Bankwet, 1965 (Wet No. 23 van 1965), geregistreer is]** en sodanige koop en verkoop geskied ooreenkomstig die voorwaardes wat die Registrateur van tyd tot tyd bepaal, en beperk is tot transaksies aangegaan—

(i) om uitvoering te gee aan 'n rekonstruksie van 'n maatskappy deur die uitgifte van nuwe aandele of 'n oorname deur een maatskappy van 'n ander of 'n samesmelting van twee of meer maatskappye; of

(ii) met die oog op die oorname van 'n maatskappy wat betref beheer van sy bestuur, beleid of besigheid; of

(iii) ten behoewe van of met persone van wie beleggings deur sodanige **[aksepbank]** bank teen vergoeding geadministreer word.";

(b) deur paragraaf (ii) van subartikel (3) deur die volgende paragraaf te vervang:

"(ii) 'n **[aksepbank]** bank is **[wat anders as voorlopig kragtens die Bankwet, 1965, geregistreer is]**;";

(c) deur paragraaf *(b)* van subartikel (4) deur die volgende paragraaf te vervang:

"*(b)* 'n **[aksepbank]** bank is **[wat anders as voorlopig kragtens die Bankwet, 1965, geregistreer is]**; of"; en

(d) deur paragraaf *(b)* van subartikel (5) deur die volgende paragraaf te vervang:

"*(b)* 'n **[aksepbank]** bank is **[wat anders as voorlopig kragtens die Bankwet, 1965, geregistreer is]**; of".

Wysiging van artikel 20 van Wet 1 van 1985

27. Artikel 20 van die Wet op Beheer van Effektebeurse, 1985, word hierby gewysig—

(a) deur paragraaf *(a)* van subartikel (1) deur die volgende paragraaf te vervang:

"*(a)* Indien die komitee van 'n gelisensieerde effektebeurs—

(i) die lidmaatskap van iemand beëindig;

(ii) kragtens artikel 16 *(b)* 'n aansoek om die opname van effekte in die lys bedoel in artikel 16 *(a)* uitstel of van die hand wys, of kragtens artikel 17 (1) *(a)* effekte uit dié lys verwyder of hul opname daarin opskort vir 'n tydperk wat, tesame met 'n opskorting kragtens artikel 17 (3), 30 dae oorskry, of vir 'n tydperk wat, tesame met 'n weglating kragtens artikel 17 (3), 30 dae oorskry, die prys van effekte uit 'n lys van prysnoterings bedoel in artikel 17 (1) *(b)* weglaat; **[of]**

(iii) 'n aansoek om die opname van effekte in die lys bedoel in artikel 16 *(a)* toestaan, en die Registrateur van oordeel is dat daar ten opsigte van daardie effekte nie aan die noteringsvereistes van die effektebeurs voldoen is nie of dat die opname van die effekte in dié lys nie in die openbare belang is nie; of

(iv) enige bevinding maak of optree teen of ten opsigte van 'n persoon in verband met, of op die grond van, 'n beweerde oortreding van artikel 39 (3) deur sodanige persoon,

dan het so iemand of die persoon wat die effekte uitgegee het of die Registrateur, na gelang van die geval, die reg om voorsien te word van die rede vir die beëindiging, uitstel, van-die-hand-wysing, verwydering, opskorting, weglating, **[of]** opname, bevinding of optrede en kan hy teen die besluit van die komitee na die raad bedoel in artikel 21 in hoër beroep gaan, en die raad kan die besluit bekragtig, wysig of tersyde stel, en kan, ongeag of die appèl teruggetrek word of nie, die kostebevel uitreik wat hy goedvind."; en

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

"(2) In die geval van 'n in subartikel (1) bedoelde beëindiging, verwydering, opskorting, **[of]** weglating, bevinding of optrede kan die komitee op

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to such conditions as it may impose and in accordance with the rules of the stock exchange (if any), suspend its decision pending any such appeal, and in the case of an inclusion referred to in subsection (1), the committee shall suspend its decision immediately after such an appeal has been noted and while it is pending.".

Amendment of section 34 of Act 1 of 1985

28. Section 34 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution for paragraph *(b)* of subsection (4) of the following paragraph:

"*(b)* with reference to a deposit made by a stock-broker or carrier against shares with a banking institution registered otherwise than provisionally in terms of the Banks Act, 1965 (Act No. 23 of 1965), or with a mutual building society registered otherwise than provisionally in terms of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), or with a building society registered otherwise than provisionally in terms of the Building Societies Act, 1986 (Act No. 82 of 1986);".

Substitution of section 39 of Act 1 of 1985

29. The following section is hereby substituted for section 39 of the Stock Exchanges Control Act, 1985:

"Advertising, canvassing or touting by stockbrokers and carriers against shares

39. (1) Subject to the provisions of subsection (2), no person shall **[orally or by means of written matter]** in any manner or by any means, either for himself or for any other person, directly or indirectly canvass, advertise or tout for work forming part of the business of a stock-broker or carrier against shares.

(2) **[The provisions of subsection (1) shall not prohibit a stock-broker or carrier against shares who is entitled to carry on business as such, from making known by a simple statement on a nameplate or signboard exhibited in or on the premises in which he carries on his business or on his stationery or on a document issued in connection with a transaction relating to securities entered into by him, that he is a stock-broker or carrier against shares or a member of a specified stock exchange, as the case may be]** Subject to the provisions of subsection (3), a stock-broker or a carrier against shares may directly or indirectly canvass, advertise or tout for work forming part of the business of a stock-broker or a carrier against shares and which may be performed in terms of this Act.

(3) The committee of a licensed stock exchange may in consultation with the Registrar prescribe the conditions on which such canvassing, advertising or touting may be undertaken and may take such action as it deems necessary, against a stock-broker or a carrier against shares, as the case may be, in the event of any contravention of such conditions.

(4) Notwithstanding anything to the contrary contained in any law, the Registrar may, if he is of the opinion that the advertisement, brochure or other similar document relating to a stock-broker or carrier against shares and proposed to be published or being published by such person or his authorized agent is misleading or for any reason objectionable, direct such person not to publish or to cease the publication of the advertisement, brochure or document concerned or to effect such adjustments as he may deem fit.".

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voorwaardes wat hy oplê en ooreenkomstig die reëls van die effektebeurs (as daar is) sy besluit opskort terwyl so 'n appèl aanhangig is, en in die geval van 'n opname bedoel in subartikel (1) moet die komitee sy besluit opskort onmiddellik nadat so 'n appèl aangeteken is en terwyl dit aanhangig is.".

Wysiging van artikel 34 van Wet 1 van 1985

28. Artikel 34 van die Wet op Beheer van Effektebeurse, 1985, word hierby gewysig deur paragraaf *(b)* van subartikel (4) deur die volgende paragraaf te vervang:

"*(b)* met betrekking tot 'n deposito gemaak deur 'n effektemakelaar of geldskieter teen aandele by 'n bankinstelling wat anders as voorlopig kragtens die Bankwet, 1965 (Wet No. 23 van 1965), geregistreer is, of by 'n onderlinge bouvereniging wat anders as voorlopig kragtens die **[Bouverenigingswet]** Wet op Onderlinge Bouverenigings, 1965 (Wet No. 24 van 1965), geregistreer is, of 'n bouvereniging wat anders as voorlopig kragtens die Wet op Bouverenigings, 1986 (Wet No. 82 van 1986), geregistreer is;";

Vervanging van artikel 39 van Wet 1 van 1985

29. Artikel 39 van die Wet op Beheer van Effektebeurse, 1985, word hierby deur die volgende artikel vervang:

"Advertensie, werwing of smousery deur effektemakelaars en geldskieters teen aandele

39. (1) Behoudens die bepalings van subartikel (2) mag niemand **[mondeling of deur middel van 'n geskrif]** op enige wyse of deur enige middele vir homself of vir iemand anders, regstreeks of onregstreeks, werk wat deel uitmaak van die besigheid van 'n effektemakelaar of geldskieter teen aandele, werf of daarvoor adverteer of daarmee smous nie.

(2) **[Die bepalings van subartikel (1) verbied nie 'n effektemakelaar of geldskieter teen aandele wat geregtig is om as sodanig besigheid te dryf, om by wyse van 'n blote verklaring op 'n naamplaat of uithangbord vertoon in of op die perseel waar hy sy besigheid dryf, of op sy skryfpapier of op 'n stuk uitgereik in verband met 'n transaksie met betrekking tot effekte wat hy aangegaan het, bekend te maak nie dat hy 'n effektemakelaar of 'n geldskieter teen aandele of 'n lid van 'n bepaalde effektebeurs, na gelang van die geval, is]** Behoudens die bepalings van subartikel (3) kan 'n effektemakelaar of geldskieter teen aandele, regstreeks of onregstreeks, werk wat deel uitmaak van die besigheid van 'n effektemakelaar of geldskieter teen aandele, en wat ingevolge hierdie Wet verrig mag word, werf of daarvoor adverteer of daarmee smous.

(3) Die komitee van 'n gelisensieerde effektebeurs kan, na oorleg met die Registrateur, die voorwaardes voorskryf waarop sodanige werwing, advertensie of smousery onderneem mag word en kan, in die geval van enige oortreding van sodanige voorwaardes, die stappe doen wat die komitee nodig ag teen 'n effektemakelaar of geldskieter teen aandele, na gelang van die geval.

(4) Ondanks andersluidende wetsbepalings kan die Registrateur, indien hy van oordeel is dat enige advertensie, brosjure of ander soortgelyke dokument van toepassing op 'n effektemakelaar of geldskieter teen aandele, wat beoog word om gepubliseer te word of gepubliseer word deur sodanige persoon of sy gemagtigde agent, misleidend is of om enige ander rede afkeurenswaardig is, sodanige persoon gelas om die betrokke advertensie, brosjure of dokument nie te publiseer nie of die publikasie daarvan te staak of om sodanige wysigings daaraan aan te bring as wat hy nodig ag.".

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Substitution of section 47 of Act 1 of 1985

30. The following section is hereby substituted for section 47 of the Stock Exchanges Control Act, 1985:

"Furnishing of information to Registrar

47. The Registrar may by notice in writing require any person who is not a stock-broker or licensed carrier against shares or a person referred to in section 4 (1) and in respect of whom the Registrar has reason to suspect that he is carrying on the business of buying and selling securities in contravention of section 3 (2), (3), (4) or (5) or of a carrier against shares in contravention of section 3 (6) or of administering or holding in safe custody on behalf of any other person any investments in listed securities or any investments of which listed securities form part in contravention of section 4 (1), to transmit to the Registrar within a period stated in the notice any document or information at that person's disposal and relating to his affairs which the Registrar may require, and that person shall comply with the requirements of the Registrar to his satisfaction within the relevant period or within such further period as the Registrar may allow.".

Amendment of section 48 of Act 1 of 1985

31. Section 48 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution for paragraph *(e)* of subsection (1) of the following paragraph:

"*(e)* refuses or fails to comply with any requirement of a president under section 19 or of the registrar under the said section 19, section 39 or section 47;".

Short title and commencement

32. (1) This Act shall be called the Financial Institutions Second Amendment Act, 1989, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

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Vervanging van artikel 47 van Wet 1 van 1985

30. Artikel 47 van die Wet op Beheer van Effektebeurse, 1985, word hierby deur die volgende artikel vervang:

"Verstrekking van inligting aan Registrateur

47. Die Registrateur kan by skriftelike kennisgewing vereis dat 'n persoon wat nie 'n effektemakelaar of 'n gelisensieerde geldskieter teen aandele of 'n persoon bedoel in artikel 4 (1) is nie, en ten opsigte van wie die Registrateur rede het om te vermoed dat hy die besigheid dryf van koop en verkoop van effekte in stryd met artikel 3 (2), (3), (4) of (5), of van 'n geldskieter teen aandele in stryd met artikel 3 (6), of van die administrasie of veilige bewaring namens iemand anders van enige belegging in genoteerde effekte of enige belegging waarvan genoteerde effekte 'n deel uitmaak, in stryd met artikel 4 (1), aan die Registrateur binne 'n tydperk in die kennisgewing vermeld, 'n stuk of inligting waaroor daardie persoon beskik en wat op sy sake betrekking het en wat die Registrateur nodig het, aan die Registrateur deurstuur, en daardie persoon moet ten genoeë van die Registrateur aan die betrokke vereiste voldoen binne die betrokke tydperk of binne die verdere tydperk wat die Registrateur toestaan.".

Wysiging van artikel 48 van Wet 1 van 1985

31. Artikel 48 van die Wet op Beheer van Effektebeurse, 1985, word hierby gewysig deur paragraaf *(e)* van subartikel (1) deur die volgende paragraaf te vervang:

"*(e)* weier of versuim om aan 'n vereiste van 'n president kragtens artikel 19 of van die Registrateur kragtens genoemde artikel 19, artikel 39 of artikel 47, te voldoen;".

Kort titel en inwerkingtreding

32. (1) Hierdie Wet heet die Tweede Wysigingswet op Finansiële Instellings, 1989, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan kragtens subartikel (1) aldus ten opsigte van verskillende bepalings van hierdie Wet bepaal word.