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REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KAAPSTAD, 29 JUNIE 1990
CAPE TOWN, 29 JUNE 1990

No. 12564

KANTOOR VAN DIE STAATSPRESIDENT

No. 1440. 29 Junie 1990

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

No. 64 van 1990: Wysigingswet op Finansiële Instellings, 1990.

STATE PRESIDENT'S OFFICE

No. 1440. 29 June 1990

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

No. 64 of 1990: Financial Institutions Amendment Act, 1990.

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Wet No. 64, 1990 WYSIGINGSWET OP FINANSIËLE INSTELLINGS, 1990

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 sekuriteitsdeposito's wat deur langtermynversekeraars gestort moet word, af te skaf; die Minister te onthef van die verpligting om die wyse voor te skryf waarop versekeraars onder sekere omstandighede aan bykomende batevereistes moet voldoen; die maksimum toelaatbare lewensversekeringsdekking op kinderlewens te verhoog; en die deponeer van geld en effekte vir sekere doeleindes verder te reël; tot wysiging van die Wet op Pensioenfondse, 1956, ten einde die veilige bewaring van die geld en bates van pensioenfondse verder te reël; die tydperk te bepaal waarbinne pensioenfondse aansoek moet doen om goedkeuring van die aanstelling van ouditeurs en waardeerders; en voorsiening te maak vir die delegering van sekere bevoegdhede van die Minister; tot wysiging van die Wet op Beheer van Effekte-trustskemas, 1981, ten einde die Registrateur te magtig om die gebruik van die woord "belê" in die naam van 'n effekte-trustskema toe te laat; tot wysiging van die Wet op Beheer van Effektebeurse, 1985, ten einde "effekte" nader te omskryf; voorsiening te maak vir die delegering van sekere bevoegdhede deur die uitvoerende komitee; en die betaling vir en lewering van effekte verder te reël; om die Minister van Finansies en sekere beamptes te vrywaar teen aanspreeklikheid ten opsigte van handelinge wat te goeder trou deur hulle verrig is kragtens genoemde wette en sekere ander wette; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 21 Junie 1990.)

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

Wysiging van artikel 4 van Wet 27 van 1943, soos gewysig deur artikel 1 van Wet 19 van 1945, artikel 3 van Wet 73 van 1951, artikel 4 van Wet 79 van 1959, artikel 10 van Wet 64 van 1960, artikel 3 van Wet 10 van 1965, artikel 2 van Wet 39 van 1969, artikel 3 van Wet 101 van 1976, artikel 2 van Wet 103 van 1979, artikel 4 van Wet 99 van 1980 en artikel 2 van Wet 86 van 1984

1. Artikel 4 van die Versekeringswet, 1943, word hierby gewysig deur paragrawe *(c)* en *(d)* van subartikel (3)*bis* te skrap.

Herroeping van artikel 6 van Wet 27 van 1943, soos vervang deur artikel 6 van Wet 10 van 1965 en gewysig deur artikel 4 van Wet 39 van 1969 en artikel 5 van Wet 99 van 1980

2. Artikel 6 van die Versekeringswet, 1943, word hierby herroep.

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GENERAL EXPLANATORY NOTE:

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

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Insurance Act, 1943, so as to abolish the security to be furnished by long-term insurers; to exempt the Minister from the obligation to prescribe the manner in which insurers must comply with additional asset requirements under certain circumstances; to increase the maximum permissible life insurance cover for children; and to further regulate the deposit of money and securities for certain purposes; to amend the Pension Funds Act, 1956, so as to further regulate the safe-keeping of the money and assets of pension funds; to determine the period within which pension funds must apply for approval of the appointment of auditors and valuators; and to provide for the delegation of certain powers of the Minister; to amend the Unit Trusts Control Act, 1981, so as to empower the Registrar to allow the use of the word "invest" in the name of any unit trust scheme; to amend the Stock Exchanges Control Act, 1985, so as to further define "securities"; to provide for the delegation of certain powers by the executive committee; and to further regulate the payment for and delivery of securities; to exempt the Minister of Finance and certain officers from liability in respect of actions *bona fide* performed by them under the said laws and certain other laws; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 21 June 1990.)

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

Amendment of section 4 of Act 27 of 1943, as amended by section 1 of Act 19 of 1945, section 3 of Act 73 of 1951, section 4 of Act 79 of 1959, section 10 of Act 64 of 1960, section 3 of Act 10 of 1965, section 2 of Act 39 of 1969, section 3 of Act 101 of 1976, section 2 of Act 103 of 1979, section 4 of Act 99 of 1980 and section 2 of Act 86 of 1984

1. Section 4 of the Insurance Act, 1943, is hereby amended by the deletion of paragraphs *(c)* and *(d)* of subsection (3)*bis*.

Repeal of section 6 of Act 27 of 1943, as substituted by section 6 of Act 10 of 1965 and amended by section 4 of Act 39 of 1969 and section 5 of Act 99 of 1980

2. Section 6 of the Insurance Act, 1943, is hereby repealed.

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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

3. Artikel 15 van die Versekeringswet, 1943, word hierby gewysig deur paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* die opgawe sluit geen bedrag in wat koste van administrasie, organisasie of besigheidsuitbreiding, of die koopprys van 'n besigheid (afgesien van die waarde van goedere wat daarby behoort), of klandisiewaarde of 'n soortgelyke pos, of die waarde van 'n herversekeringspolis of -kontrak wat die eiendom is van die versekeraar deur wie die opgawe opgestel word **[of die bedrag ingevolge artikel *vier* of *ses* by die Tesourie gedeponeer]**, verteenwoordig nie.".

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, artikel 2 van Wet 51 van 1988, artikel 1 van Wet 53 van 1989 en artikel 11 van Wet 54 van 1989

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

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

"(1) 'n Binnelandse versekeraar wat langtermyn-versekeringsbesigheid dryf, moet ten opsigte van daardie besigheid—

(a) bates besit met 'n gesamentlike waarde minstens gelyk aan die bedrag van sy netto verbintenisse ten opsigte van bedoelde besigheid; en

(b) in die Republiek bates besit van een of meer van die in die Derde Bylae van hierdie Wet gemelde soorte, met 'n gesamentlike waarde minstens gelyk aan die bedrag van sy netto verbintenisse ten opsigte van sodanige besigheid wat hy in die Republiek dryf

[en by die toepassing van hierdie sub-artikel word geld of goedgekeurde effekte ingevolge artikel *vier* of *ses* by die Tesourie gedeponeer, nie geag bates te wees wat die versekeraar besit nie]."; en

(b) deur subartikel (5B) te skrap.

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, artikel 5 van Wet 86 van 1984, artikel 2 van Wet 53 van 1989 en artikel 12 van Wet 54 van 1989

5. Artikel 18 van die Versekeringswet, 1943, word hierby gewysig—

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

"(1) Elke buitelandse versekeraar wat langtermyn-versekeringsbesigheid in die Republiek dryf, moet ten opsigte van daardie besigheid bates in die Republiek besit van een of meer van die in die Derde Bylae van hierdie Wet vermelde soorte, met 'n gesamentlike waarde minstens gelyk aan die bedrag van sy netto verbintenisse ten opsigte van daardie besigheid wat hy in die Republiek dryf **[en by die toepassing van hierdie sub-artikel word geld of goedgekeurde effekte ingevolge artikel *vier* of *ses* deur hom by die Tesourie gedeponeer, nie geag bates te wees wat die versekeraar besit nie]**."; en

(b) deur subartikel (5B) te skrap.

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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

3. Section 15 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph *(a)* of the following paragraph:

"*(a)* The statement shall not include any amount representing expenses of administration, organization or business extension, or the purchase price of any business (apart from the value of any property belonging thereto), or any goodwill or item of a similar nature, or the value of any policy or contract of reinsurance which is the property of the insurer by whom the statement is prepared **[or the amount deposited with the Treasury under section *four* or *six*]**.".

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, section 2 of Act 51 of 1988, section 1 of Act 53 of 1989 and section 11 of Act 54 of 1989

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

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

"(1) A domestic insurer who carries on long term insurance business shall in respect of such business—

(a) hold assets having an aggregate value not less than the amount of his net liabilities in respect of such business; and

(b) hold in the Republic assets of one or more of the kinds mentioned in the Third Schedule to this Act, having an aggregate value not less than the amount of his net liabilities in respect of such business carried on by him in the Republic

[and for the purposes of this sub-section money or approved securities deposited with the Treasury in terms of section *four* or *six* shall not be deemed to be assets held by the insurer]."; and

(b) by the deletion of subsection (5B).

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, section 5 of Act 86 of 1984, section 2 of Act 53 of 1989 and section 12 of Act 54 of 1989

5. Section 18 of the Insurance Act, 1943, is hereby amended—

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

"(1) Every foreign insurer who carries on long term insurance business in the Republic shall in respect of such business hold assets in the Republic of one or more of the kinds mentioned in the Third Schedule to this Act, having an aggregate value not less than the amount of his net liabilities in respect of such business carried on in the Republic **[and for the purposes of this sub-section money or approved securities deposited by him with the Treasury in terms of section *four* or *six* shall not be deemed to be assets held by the insurer]**."; and

(b) by the deletion of subsection (5B).

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Vervanging van artikel 50 van Wet 27 van 1943, soos vervang deur artikel 11 van Wet 101 van 1976 en gewysig deur artikel 13 van Wet 99 van 1980

6. Artikel 50 van die Versekeringswet, 1943, word hierby deur die volgende artikel vervang:

"Beperking van betalings by dood van kinders benede leeftyd van veertien jaar

50. (1) 'n Versekeraar mag nie die lewe van 'n kind wat benede die leeftyd van veertien jaar is, verseker nie vir 'n som geld wat meer bedra, of wat by die aanvang van die polis, tesame met 'n bedrag wat na sy wete by die dood van daardie kind deur enige ander versekeraar of deur 'n onderlinge hulpvereniging betaalbaar is, meer bedra as—

(a) **[tweehonderd-en-vyftig rand]** R10 000, indien die kind minder as ses jaar oud is; of

(b) **[vyfhonderd rand]** R30 000, indien die kind ses jaar oud of ouer, maar minder as veertien jaar oud is:

Met dien verstande dat die voorgaande bepalings van hierdie artikel nie die uitreiking belet nie van 'n polis wat beding dat by die dood van 'n kind 'n bedrag betaal sal word wat nie groter is nie as die som van al die premies wat op die polis betaal is, plus rente op elke premie teen 'n koers van hoogstens sewe-en-'n-half persent per jaar, jaarliks saamgestel: Met dien verstande voorts dat die voorgaande bepalings van hierdie artikel nie die toedeling van wins ten opsigte van 'n polis op die lewe van 'n kind onder die ouderdom van veertien jaar belet nie, mits dit geskied op die grondslag dat daardie wins nie groter is nie as die wins wat toegedeel word ten opsigte van so 'n polis op die lewens van persone bo genoemde ouderdom.

(2) By die toepassing van hierdie artikel sluit wins enige geldwaardige teenprestasie in wat deur die versekeraar gelewer word uit hoofde van die polis.".

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, artikel 9 van Wet 106 van 1985, artikel 7 van Wet 53 van 1989 en artikel 18 van Wet 54 van 1989

7. Artikel 76 van die Versekeringswet, 1943, word hierby gewysig—

(a) deur in subparagraaf (iv) van paragraaf *(a*A*)* van subartikel (1) die woord "ondervindings" deur die woord "onderverdelings" te vervang; en

(b) deur in paragraaf *(a*B*)* van subartikel (1) die woord "vir" deur die woord "van" te vervang.

Wysiging van Eerste Bylae by Wet 27 van 1943, soos vervang deur artikel 34 van Wet 10 van 1965

8. Die Eerste Bylae by die Versekeringswet, 1943, word hierby gewysig—

(a) deur artikels 1, 2, 3, 4 en 5 deur onderskeidelik die volgende artikels te vervang:

"1. Geld wat deur die Korporasie vir Openbare Deposito's ingestel by die Wet op die Korporasie vir Openbare Deposito's, 1984 (Wet No. 46 van 1984), gehou word of goedgekeurde effekte **[by die inwerkingtreding van die Wysigingswet op Versekering, 1965, deur die Tesourie gehou]** wat uitgereik is op die naam van die Minister van Finansies en in trust gehou word ten behoewe van iemand wat ingevolge artikel **[*vier* of *ses*]** 60 van hierdie Wet verplig is om 'n deposito te stort, word geag geld of effekte te wees wat so iemand ingevolge hierdie Wet gedeponeer het.

2. Effekte wat ingevolge hierdie Wet **[by die Tesourie]** gedeponeer is of geag word daarkragtens gedeponeer te wees, word teen die markwaarde of die sigwaarde daarvan gewaardeer, watter ook al die laagste is.

3. Indien die waarde van 'n deposito wat ingevolge artikel 60 van hierdie Wet deur enigiemand (hieronder die deponeerder genoem) **[ten opsigte van langtermyn-versekeringsbesigheid by die Tesourie]** gestort is of ingevolge

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Substitution of section 50 of Act 27 of 1943, as substituted by section 11 of Act 101 of 1976 and amended by section 13 of Act 99 of 1980

6. The following section is hereby substituted for section 50 of the Insurance Act, 1943:

"Restriction of payments on death of children under fourteen years of age

50. (1) No insurer shall insure the life of a child who is under the age of fourteen years for any sum of money which exceeds or which, when added at the commencement of the policy to any amount which to his knowledge is payable on the death of that child by any other insurer or by any friendly society, exceeds—

(a) **[two hundred and fifty rand]** R10 000, if the child is under six years of age; or

(b) **[five hundred rand]** R30 000, if the child is six years old or older, but is under fourteen years of age:

Provided that the preceding provisions of this section shall not prohibit the issue of a policy providing for the payment, on the death of any child, of a sum not exceeding the aggregate of all the premiums paid in respect of the policy, plus interest on each premium at a rate not exceeding seven and a half per cent per annum, compounded yearly: Provided further that the preceding provisions of this section shall not prohibit the allocation of profit in respect of a policy on the life of a child under the age of fourteen years, provided that it is done on the basis that the profit does not exceed the profit allocated in respect of such policy on the lives of persons above the said age.

(2) For the purposes of this section profit includes any valuable consideration provided by the insurer by virtue of the policy.".

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, section 9 of Act 106 of 1985, section 7 of Act 53 of 1989 and section 18 of Act 54 of 1989

7. Section 76 of the Insurance Act, 1943, is hereby amended—

(a) by the substitution in the Afrikaans text of subparagraph (iv) of paragraph *(a*A*)* of subsection (1) for the word "ondervindings" of the word "onderverdelings"; and

(b) by the substitution in paragraph *(a*B*)* of subsection (1) for the word "for" of the word "of".

Amendment of First Schedule to Act 27 of 1943, as substituted by section 34 of Act 10 of 1965

8. The First Schedule to the Insurance Act, 1943, is hereby amended—

(a) by the substitution for sections 1, 2, 3, 4 and 5 of the following sections, respectively:

"1. Any money held by the Corporation for Public Deposits established by the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984), or approved **[security which the Treasury holds at the commencement of the Insurance Amendment Act, 1965,]** securities issued in the name of the Minister of Finance and held in trust on behalf of a person who is obliged to make a deposit under section **[*four* or *six*]** 60 of this Act, shall be deemed to be money or securities deposited by the said person under this Act.

2. Securities deposited or deemed to have been deposited **[with the Treasury]** under this Act shall be valued at their market value or their face value, whichever is the lower.

3. If at any time the value of any deposit made or deemed to have been made **[with the Treasury]** by any person (hereinafter called the depositor) under section 60 of this Act **[in respect of any long term insurance business]**,

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dié artikel geag word deur hom gestort te wees, te eniger tyd minder bedra as die **[by artikel *vier* of *ses* van hierdie Wet ten opsigte van daardie besigheid vermelde]** bedrag vermeld in genoemde artikel 60 **[bedra]**, sê die **[Tesourie]** registrateur die deponeerder by skriftelike kennisgewing aan om die tekort deur die storting van geld of addisionele goedgekeurde effekte of van sowel geld as goedgekeurde effekte, na keuse van die deponeerder, aan te suiwer, en die deponeerder moet binne 'n tydperk van dertig dae vanaf die datum van die skriftelike kennisgewing van die **[Tesourie]** registrateur daaraan voldoen.

4. Die **[Tesourie]** registrateur moet een maal in 'n kalenderjaar op versoek van 'n deponeerder aan hom 'n sertifikaat verstrek **[ten effekte dat die Tesourie 'n]** ter bevestiging van die deposito **[hou]** wat hy ingevolge hierdie Wet gestort het en van die waarde van die deposito.

5. 'n Deponeerder kan te eniger tyd—

(a) goedgekeurde effekte of geld wat hy ten opsigte van versekeringsbesigheid **[by die Tesourie]** ingevolge hierdie Wet gedeponeer het of wat hy ingevolge artikel 1 geag word aldus te gedeponeer het, terugvorder vir sover dit meer bedra as die waarde in artikel **[*vier* of *ses*]** 60 van hierdie Wet ten opsigte van daardie besigheid vermeld; of

(b) geld of ander goedgekeurde effekte van die vereiste waarde in die plek stel van enige effekte aldus gedeponeer of geag aldus gedeponeer te wees.";

(b) deur artikel 6 te skrap; en

(c) deur artikel 7 deur die volgende artikel te vervang:

"7. 'n Deponeerder is geregtig op die inkomste verkry uit effekte en geld wat hy ingevolge hierdie Wet **[by die Tesourie]** gedeponeer het of ingevolge artikel 1 geag word aldus te gedeponeer het.".

Wysiging van artikel 5 van Wet 24 van 1956, soos gewysig deur artikel 14 van Wet 81 van 1957

9. Artikel 5 van die Wet op Pensioenfondse, 1956, word hierby gewysig—

(a) deur die volgende voorbehoudsbepaling by subartikel (2) te voeg:

"Met dien verstande dat, onderworpe aan die voorwaardes wat die Minister by kennisgewing in die *Staatskoerant* bepaal, sodanige geld en bates ook in die naam van die pensioenfonds deur een of meer van die volgende instellings of persone gehou kan word, te wete—

(a) 'n effektemakelaar soos omskryf in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985);

(b) 'n versekeraar wat ingevolge die Versekeringswet, 1943 (Wet No. 27 van 1943), geregistreer of voorlopig geregistreer is;

(c) 'n bankinstelling wat kragtens die Bankwet, 1965 (Wet No. 23 van 1965), geregistreer of voorlopig geregistreer is;

(d) 'n benoemde maatskappy; of

(e) iemand wat deur die registrateur goedgekeur is, of wat lid is van 'n kategorie persone wat deur die registrateur goedgekeur is."; en

(b) deur die volgende subartikels na subartikel (2) by te voeg:

"(3) Vir die doeleindes van hierdie artikel is 'n benoemde maatskappy 'n maatskappy wat—

(a) as sy hoofdoelstelling het om op te tree as verteenwoordiger van enige persoon;

(b) deur sy akte van oprigting belet word om verpligting aan te gaan, behalwe dié teenoor persone namens wie hy goed besit;

(c) 'n onherroeplike ooreenkoms met 'n ander persoon aangegaan het ingevolge waarvan daardie ander persoon onderneem om al die koste van en in verband met sy oprigting, bedrywighede, bestuur en likwidasie te betaal; en

(d) deur die registrateur goedgekeur is, onderworpe aan sodanige voorwaardes wat hy oplê, met inbegrip van enige verpligting ten opsigte van die besit van sodanige goed, sonder dat aan die bepalings van die voorafgaande paragrawe afbreuk gedoen word deur die bepalings van hierdie paragraaf.

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falls short of the amount mentioned in the said section 60 **[*four* or *six* of this Act in respect of that business]**, the **[Treasury]** registrar shall, by notice in writing, call upon the depositor to make good the deficiency by a deposit of money or further approved securities, or of both money and approved securities, at the option of the depositor, and the depositor shall comply with the said written notice of the **[Treasury]** registrar within a period of thirty days as from the date thereof.

4. Once in any calendar year the **[Treasury]** registrar shall, at the request of a depositor, furnish him with a certificate **[of the fact that the Treasury holds a]** in confirmation of the deposit which he made under this Act, and of its value.

5. A depositor may at any time—

(a) withdraw any approved security or money which he has deposited **[with the Treasury]** in terms of this Act or which he, in terms of section 1, is deemed to have so deposited in respect of **[any]** insurance business to the extent **[by]** to which it is in excess of the value mentioned in section **[*four* or *six*]** 60 of this Act in respect of that business; or

(b) substitute for any security so deposited or deemed to have been so deposited any money or any other approved security of the requisite value.";

(b) by the deletion of section 6; and

(c) by the substitution for section 7 of the following section:

"7. A depositor shall be entitled to the income derived from any securities and money which he deposited or is in terms of section 1 deemed to have so deposited **[with the Treasury]** under this Act.".

Amendment of section 5 of Act 24 of 1956, as amended by section 14 of Act 81 of 1957

9. Section 5 of the Pension Funds Act, 1956, is hereby amended—

(a) by the addition to subsection (2) of the following proviso:

"Provided that such money and assets may, subject to the conditions determined by the Minister by notice in the *Gazette*, also be kept in the name of the pension fund by one or more of the following institutions or persons, namely—

(a) a stock-broker as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);

(b) an insurer registered or provisionally registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943);

(c) a banking institution registered or provisionally registered under the Banks Act, 1965 (Act No. 23 of 1965);

(d) a nominee company; or

(e) a person approved by the registrar, or who is a member of a category of persons approved by the registrar."; and

(b) by the addition after subsection (2) of the following subsections:

"(3) For the purposes of this section, a nominee company is a company which—

(a) has as its principal object to act as representative of any person;

(b) is precluded by its memorandum of association from incurring any liabilities other than those to persons on whose behalf it holds property;

(c) has entered into an irrevocable agreement with another person in terms of which such other person has undertaken to pay all expenses of and incidental to its formation, activities, management and liquidation; and

(d) has been approved by the registrar, subject to such conditions as he may impose, including any guarantee for the fulfilment of any obligation in respect of the holding of such property, the generality of the afore-going provisions not being restricted by the provisions of this paragraph.

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(4) Ondanks die bepalings van subartikel (2), kan die registrateur toestemming gee dat geld en bates in die naam van 'n benoemde maatskappy namens die pensioenfonds gehou word.".

Wysiging van artikel 9 van Wet 24 van 1956, soos vervang deur artikel 12 van Wet 65 van 1968

10. Artikel 9 van die Wet op Pensioenfondse, 1956, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Elke geregistreerde fonds moet binne 30 dae—

(a) vanaf die datum van registrasie 'n ouditeur aanstel; en

(b) vanaf die datum van die aanstelling by die registrateur om goedkeuring van daardie aanstelling aansoek doen.".

Wysiging van artikel 19 van Wet 24 van 1956, soos gewysig deur artikel 13 van Wet 80 van 1959, artikel 9 van Wet 58 van 1966, artikel 1 van Wet 80 van 1969, artikel 2 van Wet 23 van 1970, artikel 7 van Wet 91 van 1972, artikel 23 van Wet 101 van 1976, artikel 11 van Wet 94 van 1977, artikel 11 van Wet 80 van 1978, artikel 14 van Wet 103 van 1979, artikel 39 van Wet 99 van 1980, artikel 14 van Wet 82 van 1982, artikel 20 van Wet 46 van 1984, artikel 17 van Wet 86 van 1984, artikel 11 van Wet 50 van 1986, artikel 5 van Wet 51 van 1988 en artikel 8 van Wet 53 van 1989

11. Artikel 19 van die Wet op Pensioenfondse, 1956, word hierby gewysig—

(a) deur paragraaf *(c)* van subartikel (6) te skrap; en

(b) deur die volgende subartikel na subartikel (6) in te voeg:

"(7) Die Minister kan 'n bevoegdheid wat by hierdie artikel aan die Minister verleen word skriftelik aan die registrateur of 'n ander beampte in die staatsdiens delegeer.".

Wysiging van artikel 38 van Wet 54 van 1981

12. Artikel 38 van die Wet op Beheer van Effekte-trustskemas, 1981, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Niemand mag 'n effekte-trustskema voortsit onder 'n naam wat die woord "belê" of enige afleiding daarvan insluit nie, behalwe met die skriftelike toestemming van die registrateur en op die voorwaardes en in die mate wat hy goedvind.".

Wysiging van artikel 1 van Wet 1 van 1985, soos gewysig deur artikel 14 van Wet 50 van 1986, artikel 24 van Wet 51 van 1988, artikel 25 van Wet 54 van 1989 en artikel 38 van Wet 55 van 1989

13. Artikel 1 van die Wet op Beheer van Effektebeurse, 1985, word hierby gewysig deur in die omskrywing van "effekte" die woorde wat paragraaf (i) voorafgaan deur die volgende woorde te vervang:

"'effekte' ook aandele, skuldbriewe (uitgegee deur 'n maatskappy met 'n aandelekapitaal), notas, effekte-eenhede wat in die plek van aandele uitgegee is, opsies op aandele of op sodanige skuldbriewe, notas of eenhede, asook regte daarop, en opsies op indekse van informasie soos uitgereik deur 'n effektebeurs oor pryse van enige van bogenoemde instrumente, asook enige ander instrumente wat deur die Registrateur by kennisgewing in die *Staatskoerant* as effekte verklaar is, maar uitgesonderd—".

Wysiging van artikel 16 van Wet 1 van 1985

14. Artikel 16 van die Wet op Beheer van Effektebeurse, 1985, word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:

"(2) Die komitee kan, onderworpe aan die voorwaardes wat hy bepaal, enige bevoegdheid of plig by of kragtens paragraaf *(b)* van subartikel (1) aan hom verleen of opgedra, aan 'n subkomitee of iemand wat hy goed ag, delegeer of

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(4) Notwithstanding the provisions of subsection (2), the registrar may permit money and assets to be kept in the name of a nominee company on behalf of the pension fund.".

Amendment of section 9 of Act 24 of 1956, as substituted by section 12 of Act 65 of 1968

10. Section 9 of the Pension Funds Act, 1956, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Every registered fund shall within 30 days—

(a) from the date of registration appoint an auditor; and

(b) from the date of the appointment apply to the registrar for approval of such appointment.".

Amendment of section 19 of Act 24 of 1956, as amended by section 13 of Act 80 of 1959, section 9 of Act 58 of 1966, section 1 of Act 80 of 1969, section 2 of Act 23 of 1970, section 7 of Act 91 of 1972, section 23 of Act 101 of 1976, section 11 of Act 94 of 1977, section 11 of Act 80 of 1978, section 14 of Act 103 of 1979, section 39 of Act 99 of 1980, section 14 of Act 82 of 1982, section 20 of Act 46 of 1984, section 17 of Act 86 of 1984, section 11 of Act 50 of 1986, section 5 of Act 51 of 1988 and section 8 of Act 53 of 1989

11. Section 19 of the Pension Funds Act, 1956, is hereby amended—

(a) by the deletion of paragraph *(c)* of subsection (6); and

(b) by the insertion after subsection (6) of the following subsection:

"(7) The Minister may in writing delegate to the registrar or any other officer in the public service any power conferred on the Minister by this section.".

Amendment of section 38 of Act 54 of 1981

12. Section 38 of the Unit Trusts Control Act, 1981, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) No person shall carry on a unit trust scheme under a name which includes the word "invest" or any derivative thereof, except with the approval in writing of the registrar and on such conditions and to such extent as he may deem fit.".

Amendment of section 1 of Act 1 of 1985, as amended by section 14 of Act 50 of 1986, section 24 of Act 51 of 1988, section 25 of Act 54 of 1989 and section 38 of Act 55 of 1989

13. Section 1 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution in the definition of "securities" for the words preceding paragraph (i) of the following words:

"'securities' includes stocks, shares, debentures (issued by a company having a share capital), notes, units of stock issued in place of shares, and options on stocks or shares or on such debentures, notes or units, and rights thereto, options on indices of information as issued by a stock exchange on prices of any of the afore-mentioned instruments, as well as any other instruments declared by the Registrar by notice in the *Gazette* to be securities, but excluding—".

Amendment of section 16 of Act 1 of 1985

14. Section 16 of the Stock Exchanges Control Act, 1985, is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

"(2) The committee may, subject to such conditions as it may determine, delegate or assign any power or duty conferred upon or assigned to it by or under paragraph *(b)* of subsection (1), to a subcommittee or such person as it

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opdra, maar word nie daardeur ontdoen of onthef van 'n bevoegdheid of plig aldus gedelegeer of opgedra nie.".

Wysiging van artikel 27 van Wet 1 van 1985

15. Artikel 27 van die Wet op Beheer van Effektebeurse, 1985, word hierby gewysig deur die volgende subartikel na subartikel (3) in te voeg:

"(3A) Die bepalings van artikels 22, 23, 24 en 25 is nie van toepassing nie op enige persoon wat opsies op effekte of genoteerde effekte koop of verkoop.".

Wysiging van artikel 29 van Wet 1 van 1985

16. Artikel 29 van die Wet op Beheer van Effektebeurse, 1985, word hierby gewysig deur die volgende voorbehoudsbepaling by te voeg:

"Met dien verstande dat vir die doeleindes van hierdie artikel die volgende handelinge geag word effektiewe lewering aan die kliënt te wees:

(a) Die fisiese lewering van effekte aan die kliënt of sy order of genomineerde;

(b) die indiening van effekte by 'n maatskappy-oordragkantoor vir registrasie op die naam van die kliënt of sy genomineerde kragtens 'n voorafgaande skriftelike opdrag deur die kliënt, of die registrasie van effekte op die naam van die genomineerde van die effektemakelaar; of

(c) die versending aan die kliënt per geregistreerde pos van effekte, kragtens 'n voorafgaande skriftelike opdrag, voor die verstryking van die voormelde tydperk van 14 besigheidsdae.".

Beperking van aanspreeklikheid

17. Die Minister van Finansies, of enige beampte of kontrakwerker in diens van die Departement van Finansies, is nie aanspreeklik nie ten opsigte van 'n *bona fide* uitoefening van 'n diskresie by die verrigting van 'n plig aan hom opgedra kragtens—

(a) die Versekeringswet, 1943 (Wet No. 27 van 1943);

(b) die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);

(c) die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956);

(d) die Wet op Beheer van Effekte-trustskemas, 1981 (Wet No. 54 van 1981);

(e) die Wet op Deelnemingsverbande, 1981 (Wet No. 55 van 1981);

(f) die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985);

(g) die Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989);

(h) die Wet op Herversekering van Eiendomskade en -verliese, 1989 (Wet No. 56 van 1989); en

(i) die Woekerwet, 1968 (Wet No. 73 van 1968).

Kort titel en inwerkingtreding

18. (1) Hierdie Wet heet die Wysigingswet op Finansiële Instellings, 1990.

(2) Die bepalings van hierdie Wet tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal, met die uitsondering dat artikel 12 geag word op 6 Julie 1987 in werking te getree het.

(3) Verskillende datums kan aldus ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

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deems fit, but shall not thereby be divested or relieved of any power or duty so delegated or assigned.".

Amendment of section 27 of Act 1 of 1985

15. Section 27 of the Stock Exchanges Control Act, 1985, is hereby amended by the insertion after subsection (3) of the following subsection:

"(3A) The provisions of sections 22, 23, 24 and 25 shall not apply to any person who buys or sells options on securities or listed securities.".

Amendment of section 29 of Act 1 of 1985

16. Section 29 of the Stock Exchanges Control Act, 1985, is hereby amended by the addition of the following proviso:

"Provided that for the purposes of this section the following acts shall be deemed to constitute effective delivery of securities to the client:

(a) The physical handing over of securities to the client or his order or nominee;

(b) the lodgement of securities with a company transfer office for registration into the name of the client or his nominee in terms of a prior written instruction by the client, or the registration of securities into the name of the stock-broker's nominee; or

(c) the posting to the client per registered post of securities, in terms of a prior written instruction, before the expiry of the afore-mentioned period of 14 business days.".

Restriction of liability

17. The Minister of Finance, or any officer or contract worker in the employment of the Department of Finance, shall not be liable in respect of any *bona fide* exercise of any discretion in the performance of any duty imposed upon him under—

(a) the Insurance Act, 1943 (Act No. 27 of 1943);

(b) the Pension Funds Act, 1956 (Act No. 24 of 1956);

(c) the Friendly Societies Act, 1956 (Act No. 25 of 1956);

(d) the Unit Trusts Control Act, 1981 (Act No. 54 of 1981);

(e) the Participation Bonds Act, 1981 (Act No. 55 of 1981);

(f) the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);

(g) the Financial Markets Control Act, 1989 (Act No. 55 of 1989);

(h) the Reinsurance of Material Damage and Losses Act, 1989 (Act No. 56 of 1989); and

(i) the Usury Act, 1968 (Act No. 73 of 1968).

Short title and commencement

18. (1) This Act shall be called the Financial Institutions Amendment Act, 1990.

(2) The provisions of this Act shall come into operation on a date fixed by the State President by proclamation in the *Gazette*, with the exception that section 12 shall be deemed to have come into operation on 6 July 1987.

(3) Different dates may be so fixed in respect of different provisions of this Act.