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[No. 3594.]

DEPARTMENT OF THE PRIME MINISTER.

No. 1126. 28th June, 1972.

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

No. 91 of 1972: Financial Institutions Amendment Act, 1972.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1126. 28 Junie 1972.

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

No. 91 van 1972: Wysigingswet op Finansiële Instellings, 1972.

FINANCIAL INSTITUTIONS AMENDMENT ACT,
1972.

Act No. 91, 1972

ACT

To amend the Insurance Act, 1943, in order to increase the proportions of the funds of insurers to be invested respectively in assets of the kinds mentioned in Part I of the Third Schedule to the said Act and in bills, bonds or securities issued by the Government of the Republic; to amend the National Finance Corporation Act, 1949, in order to provide for the transfer of stock in the National Finance Corporation of South Africa and to extend the matters which may be prescribed by regulation; to amend the Pension Funds Act, 1956, in order to increase the proportions of the aggregate value of assets of pension funds to be invested respectively in assets of the classes mentioned in section 19 (1) of the said Act and in bills, bonds or securities issued by the Government of the Republic and to empower the Minister of Finance to delegate any of the powers conferred on him by section 19 of the said Act to the Registrar of Pension Funds; to amend the Friendly Societies Act, 1956, in order to exempt a friendly society whose accounts are being audited by a Provincial Auditor, from the requirement to appoint an auditor; to amend the Participation Bonds Act, 1964, in order to extend the conditions on which managers of participation bond schemes may accept moneys for investment in participation bonds and may offer participations in such bonds; in order to amend the rights of participants in participation bonds to enforce their rights against mortgagors and to transfer or cede such rights; and in order to provide for an additional stipulation to be included in the rules of schemes; to amend the provisions of the Banks Act, 1965, relating to definitions and to the minimum reserve balance, minimum liquid assets and minimum prescribed investments to be maintained by banking institutions; in order to increase the aggregate amount which may be accepted from a person on savings account; and to provide for an extension of time within which a banking institution may correct a failure to maintain a ratio or minimum amount prescribed by or under the said Banks Act; and to amend the Building Societies Act, 1965, in order to increase the aggregate amount which may be accepted from a person on savings account; in order to authorize the re-investment of a fixed deposit for less than twelve months; and in order to authorize the Minister of Finance to exempt building societies temporarily from the requirement to maintain prescribed investments; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 16th June, 1972.)

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

FINANCIAL INSTITUTIONS AMENDMENT ACT,
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1. Section 1 of the Insurance Act, 1943, is hereby amended by the insertion in subsection (1)—

(a) after the definition of "owner" of the following definition:

" 'pension fund' means a pension fund as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);"; and

(b) after the definition of "Republic" of the following definition:

" 'retirement annuity fund' means a retirement annuity fund as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);".

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 and section 1 of Act 39 of 1969.

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

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

"(2) (a) The assets referred to in subsection 1 (b) shall, subject to the provisions of subsection (3), include assets of the kinds mentioned in Part I of the Third Schedule having an aggregate value not less than—

(i) thirty per cent of the amount of the net liabilities referred to in subsection 1 (b), excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and

(ii) fifty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds.

(b) The assets last-mentioned in paragraph (a) shall include bills, bonds or securities issued by the Government of the Republic having an aggregate value not less than—

(i) fifteen per cent of the amount of the said net liabilities, excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and

(ii) twenty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds."; and

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

"(c) The assets of the kinds mentioned in Part I of the Third Schedule and referred to in paragraphs (a) and (b), shall include bills, bonds or securities issued by the Government of the Republic having an aggregate value not less than fifteen per cent of the amount of the net liabilities and the additional amount referred to in subsection (4) (b).".

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.

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

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

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.

“(2) (a) The assets referred to in subsection (1) shall, subject to the provisions of subsection (3), include assets of the kinds mentioned in Part I of the Third Schedule having an aggregate value not less than—

(i) thirty per cent of the amount of the net liabilities referred to in subsection (1), excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and

(ii) fifty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds.

(b) The assets last-mentioned in paragraph (a) shall include bills, bonds or securities issued by the Government of the Republic having an aggregate value not less than—

(i) fifteen per cent of the amount of the said net liabilities, excluding such net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds; and

(ii) twenty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds.”; and

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

“(c) The assets of the kinds mentioned in Part I of the Third Schedule and referred to in paragraphs (a) and (b), shall include bills, bonds or securities issued by the Government of the Republic having an aggregate value not less than fifteen per cent of the amount of the net liabilities and the additional amount referred to in subsection (4).”.

4. The following section is hereby substituted for section 18bis of the Insurance Act, 1943:

Substitution of section 18bis of Act 27 of 1943, as inserted by section 14 of Act 10 of 1965 and amended by section 6 of Act 41 of 1966.

“Temporary modifications of sections 17 and 18.

18bis. (1) Any registered insurer who at the date of commencement of the Financial Institutions Amendment Act, 1972, does not hold assets of the kinds mentioned in Part I of the Third Schedule to the aggregate value prescribed by section 17 or 18, as the case may be, shall, until he holds assets of those kinds having the aggregate value so prescribed, hold at the end of each financial year, assets of such kinds having an aggregate value not less than—

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(a) the aggregate value prescribed by section 17 or 18, as the case may be, less

(b) the amount which bears the same ratio to the amount by which the aggregate value of assets of such kinds which the insurer would have been required to hold on the thirtieth day of September, 1971, had the Financial Institutions Amendment Act, 1972, been then applicable, exceeds the aggregate value of assets of such kinds which the insurer held at that date, as the period from the end of the financial year in question to the end of a period of ten years extending from the beginning of the financial year in which such date of commencement falls, bears to a period of ten years.

(2) Any registered insurer who at the date of commencement of the Financial Institutions Amendment Act, 1972, does not hold assets in the form of bills, bonds or securities issued by the Government of the Republic to the aggregate value prescribed by section 17 or 18, as the case may be, shall, until he holds assets in that form having the aggregate value so prescribed, hold at the end of each financial year, assets in such form having an aggregate value not less than—

(a) the aggregate value prescribed by section 17 or 18, as the case may be, less

(b) the amount which bears the same ratio to the amount by which the aggregate value of assets in such form which the insurer would have been required to hold on the thirtieth day of September, 1971, had the Financial Institutions Amendment Act, 1972, been then applicable, exceeds the aggregate value of assets in such form which the insurer held at that date as the period from the end of the financial year in question to the end of a period of ten years extending from the beginning of the financial year in which such commencement date falls, bears to a period of ten years.

(3) The Registrar may in respect of an insurer who is required to comply with any of the provisions of subsection (1) or (2), in exceptional circumstances authorize a departure from the said provisions to the extent and subject to such conditions as the Registrar may determine.”.

5. The following section is hereby inserted in the National Finance Corporation Act, 1949, after section 6:

Insertion of
section 6A in Act
33 of 1949.

“Transfer
of stock.

6A. (1) The transfer of stock in the corporation shall be restricted to the transfer of stock among institutions of the classes mentioned in section 6 (1) and such transfers shall be subject to the approval of the board which in its discretion may refuse to register any transfer of stock, without being obliged to give any reason for the refusal.

(2) No stock in the corporation shall be held in the name of or transferred to a nominee.”.

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6. (1) The following section is hereby substituted for section 19 of the National Finance Corporation Act, 1949:

Substitution of
section 19 of Act
33 of 1949.

"Regulations.

19. The State President may make regulations, not inconsistent with the provisions of this Act, as to—

- (a) the powers and duties of the board;
- (b) the procedure for the appointment of directors to the board and for the appointment of a director to fill a casual vacancy;
- (c) the conditions (other than those relating to remuneration) of appointment of directors and alternate directors and the circumstances in which a director or an alternate director shall vacate his office;
- (d) the occasions when and the circumstances in which and the conditions under which an alternate director may act in the place of a director;
- (e) meetings of the board and the procedure thereat and the minutes to be kept thereof;
- (f) the taking of decisions by directors without holding a meeting of the board;
- (g) meetings of stockholders, the nomination of persons to represent stockholders at such meetings, the matters to be dealt with thereat, and the procedure thereat, including the quorum necessary therefor and the minutes to be kept thereof;
- (h) the submission annually of a balance sheet and accounts to a meeting of stockholders;
- (i) the provision of an official seal or seals and the use thereof within the Republic or elsewhere;
- (j) the form and the issue of stock certificates and the keeping of a register of stockholders;
- (k) the transfer and vesting of stock;
- (l) the declaration of interim dividends and the procedure for payment of dividends;
- (m) the authorization by the board of persons to sign or execute documents for or on behalf of the corporation;
- (n) the indemnification of directors, officials or servants of the corporation against costs, losses or expenses arising from the discharge of any functions under this Act or the regulations;
- (o) any matter which in terms of this Act shall or may be prescribed by way of regulation;
- (p) generally, all matters for which he deems it necessary or expedient to make regulations in order to achieve the objects of this Act."

(2) Subsection (1) shall be deemed to have come into operation on 15 July, 1949.

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

Amendment of
section 19 of Act 24
of 1956, as amended
by section 13 of
Act 80 of 1959,

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

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“(1) A registered fund shall, subject to the provisions of subsections (6) and (7), hold in the Republic assets equal in value to at least fifty per cent of the aggregate value of all the assets of the fund in one or more of the following classes of assets, namely—

section 9 of Act 58 of 1966, section 1 of Act 80 of 1969 and section 2 of Act 23 of 1970.

- (a) money in hand in the Republic;
- (b) any amount standing to the credit of the fund concerned in an account with an office in the Republic of a banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), or with a building society registered under the Building Societies Act, 1965 (Act No. 24 of 1965), or with the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949), or with the Post Office Savings Bank;
- (c) bills, bonds or securities issued or guaranteed by the Government of the Republic or a provincial administration;
- (d) bills, bonds or securities issued or guaranteed by or deposits with any local authority in the Republic authorized by law to levy rates upon immovable property;
- (e) bills, bonds or securities issued or guaranteed by the Rand Water Board or the Electricity Supply Commission;
- (f) deposits with, or debentures quoted on a stock exchange in the Republic issued by, the Land and Agricultural Bank of South Africa;
- (g) South African Reserve Bank stock;
- (h) bills, bonds or securities approved by the registrar subject to such conditions as he may impose, and also those issued by an institution which the registrar has likewise approved:

Provided that a registered fund shall hold any one or more of the kinds of assets mentioned in paragraph (c), which have been issued by the Government of the Republic, in an amount of not less than twenty per cent of the aggregate value of all the assets of the fund.”;

- (b) by the substitution for paragraph (a) of subsection (6) of the following paragraph:

“(a) The Minister may exempt either wholly or in part any fund established or conducted by a religious institution from compliance with the provisions of subsections (1) and (7), and may, under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any fund from compliance with any provision of subsection (1), (4), (5) or (7).”;

- (c) by the addition to subsection (6) of the following paragraph:

“(c) The Minister may in writing delegate to the registrar any power conferred on the Minister by this section.”; and

- (d) by the substitution for subsection (7) of the following subsection:

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“(7) If the assets of a registered fund do not at the date of commencement of the Financial Institutions Amendment Act, 1972, satisfy—

- (a) the requirements of subsection (1), without having regard to the requirements of the proviso to that subsection, such fund shall, until its assets satisfy the said requirements, hold at the end of each financial year assets in one or more of the classes of assets referred to in subsection (1) having an aggregate value not less than—
 - (i) the value prescribed by subsection (1), less
 - (ii) an amount which bears the same ratio to the amount by which fifty per cent of the aggregate value of all the assets of the fund on 31 December, 1971, exceeded the aggregate value of the assets of the classes referred to in subsection (1) held by the fund on that date, as the period extending from the end of the financial year in question to 31 December, 1981, bears to a period of ten years;
- (b) the requirements of the proviso to subsection (1), such fund shall, until its assets satisfy the said requirements, hold at the end of each financial year, assets of the kinds mentioned in paragraph (c) of subsection (1), which have been issued by the Government of the Republic, having an aggregate value not less than—
 - (i) the amount prescribed in the said proviso, less
 - (ii) an amount which bears the same ratio to the amount by which twenty per cent of the aggregate value of all the assets of the fund on 31 December, 1971, exceeded the aggregate value of the assets of the said kinds held by the fund on that date, as the period extending from the end of the financial year in question to 31 December, 1981, bears to a period of ten years.”.

8. Section 11 of the Friendly Societies Act, 1956, is hereby amended by the insertion in subsection (1) after the word “Auditor-General” of the words “or a Provincial Auditor”. Amendment of section 11 of Act 25 of 1956.

9. Section 3 of the Participation Bonds Act, 1964, is hereby amended— Amendment of section 3 of Act 48 of 1964.

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

“(1) A manager may accept money from any person in terms of a written agreement to be invested on his behalf upon the security of a particular participation bond or of any participation bonds, whether such bond is or such bonds are already registered or not: Provided that—

- (a) if a participation is not granted within sixty days as from the date of acceptance of such money, the money shall be refunded to the person from whom it was accepted; and
- (b) from the date of commencement of the Financial Institutions Amendment Act, 1972—
 - (i) an amount of less than one thousand rand shall not be so accepted; and
 - (ii) such agreement shall provide that, except in the circumstances set forth in paragraph (a)

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of this proviso and in section 6 (6) (b) (iii), such money shall be invested for a period of not less than five years in a participation bond or participation bonds included in the scheme and that in the event of the debt secured by a participation bond being repaid in whole or in part by the mortgagor before the expiry of a period of five years from the date of investment, money so repaid shall be reinvested for not less than the unexpired portion of the said period of five years by the manager on behalf of such person upon the security of another participation bond or of other participation bonds included in the scheme and acceptable to such person.”;

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

“(2) A manager may offer to any person, or itself or himself hold as a participant, a participation in any participation bond: Provided that—

- (a) where a person has paid money to a manager in terms of subsection (1) such manager may, without first making such offer, grant to such person such participation or participations in any such bond as fall within the scope of any written authority given by such person to such manager;
 - (b) the manager shall not offer, grant or hold such participations in sums the aggregate of which exceeds the total sum secured under such bond, or, in any case where the mortgagor has repaid part of the debt secured under the bond, exceeds the amount owing by the mortgagor under such bond at the time when the participation is granted; and
 - (c) from the date of commencement of the Financial Institutions Amendment Act, 1972, the manager shall not offer to any person a participation of less than one thousand rand in any participation bond registered after the commencement of the said Amendment Act.”;
- (c) by the substitution for subsection (3) of the following subsection:

“(3) An offer in terms of subsection (2) shall—

- (a) set forth the particulars of the bond in which the participation is offered;
- (b) set forth the extent of the participation offered;
- (c) be accompanied by a copy of the rules of the scheme in which the bond is included, except where the investor is already a participant in the scheme; and
- (d) be made on the specific condition that, except in the circumstances set forth in paragraph (a) of the proviso to subsection (1) and in section 6 (6) (b) (iii), money invested upon the security of a participation bond included in the scheme shall remain invested for a period of not less than five years in the participation offered and accepted or

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on the security of another participation bond or of other participation bonds included in the scheme and that in the event of the debt secured by the participation bond in which the participation is granted being repaid in whole or in part by the mortgagor before the expiry of a period of five years from the date on which the participation was granted, the amount to be invested in the participation so offered shall be reinvested for not less than the unexpired portion of the said period of five years by the manager on behalf of such person upon the security of another participation bond or of other participation bonds included in the scheme and acceptable to such person.”; and

- (d) by the insertion of the following subsection after subsection (5):

“(6) The provisions of this section shall apply *mutatis mutandis* to any money or any part of such sum paid to a manager after the expiry of the period of five years referred to in paragraph (b) (ii) of the proviso to subsection (1) and in subsection (3) (d), in reduction of the principal debt and where such money or any part of such sum is to be reinvested on behalf of an investor upon the security of another participation bond or of other participation bonds included in the scheme.”.

10. Section 6 of the Participation Bonds Act, 1964, is hereby amended—

Amendment of
section 6 of Act
48 of 1964, as
amended by
section 2 of Act 98
of 1967.

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

“(2) (a) Every holder of a participation secured by a participation bond shall, unless it is otherwise provided in the rules of the scheme in which the bond is included, be entitled to enforce against the mortgagor his rights under such participation as soon as it has been granted to him in the same manner as if the bond were registered in his name as mortgagee.

- (b) Such a holder shall not be entitled to enforce his right to repayment of the principal debt secured by the bond unless—

- (i) the mortgagor fails to comply with the conditions of the bond; or
- (ii) in a case where the right to such repayment was acquired before the date of commencement of the Financial Institutions Amendment Act, 1972, a period of not less than three years has elapsed after a holder acquired such right; or
- (iii) in a case where the right to such repayment is acquired on or after the date of commencement of the Financial Institutions Amendment Act, 1972, the period of not less than five years referred to in paragraph (b) (ii) of the proviso to section 3 (1) or in section 3 (3) (d), as the case may be, has elapsed.”; and

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- (b) by the substitution for subsection (6) of the following subsection:

“(6) A participant shall have the right to transfer, cede or encumber his rights in a participation bond without the consent of the mortgagor, provided—

- (a) he has obtained the prior written consent of the manager to such transfer, cession or encumbrance; and

- (b) in the case of any such transfer or cession—

- (i) where he acquired his rights in such participation bond before the date of commencement of the Financial Institutions Amendment Act, 1972, a period of not less than three years has elapsed after he acquired such rights; or
- (ii) where he acquires his rights in such participation bond on or after the date of commencement of the Financial Institutions Amendment Act, 1972, the period of not less than five years referred to in paragraph (b) (ii) of the proviso to section 3 (1) or in section 3 (3) (d), as the case may be, has elapsed; or
- (iii) the registrar approves such transfer or cession.”.

11. Section 9 of the Participation Bonds Act, 1964, is hereby amended by the insertion after subsection (4) of the following subsection:

“(4A) The rules of the scheme shall provide that money accepted by the manager in terms of section 3 (1) or money received by the manager in consequence of an offer made by him in terms of section 3 (2) or money paid to the manager in reduction of the principal debt owing under a participation bond shall be deposited by the manager in the name of the nominee company on behalf of the investor with a banking institution registered otherwise than provisionally in terms of the Banks Act, 1965 (Act No. 23 of 1965), and that such money shall remain so deposited until the investor is granted a participation in a participation bond included in the scheme or until the money is repaid to the investor.”.

Amendment of section 9 of Act 48 of 1964, as amended by section 3 of Act 98 of 1967.

12. Section 1 of the Banks Act, 1965, is hereby amended—

- (a) by the substitution in subsection (1)—

- (i) for the definition of “liquid assets” of the following definition:

Amendment of section 1 of Act 23 of 1965.

“‘liquid assets’ means the aggregate amount of—

- (a) Reserve Bank notes, subsidiary coin, gold coin and bullion;
- (b) credit balances with the Reserve Bank;
- (c) deposits withdrawable on demand with the National Finance Corporation;
- (d) deposits which are withdrawable on demand by cheque and which a banking institution, not being a member of the clearing house, holds with another

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banking institution and on which no interest or any other return is earned or received;

- (e) loans to discount houses repayable on demand;
 - (f) Treasury bills of the Republic;
 - (g) stocks of the Government with a maturity to the latest redemption date of not more than three years;
 - (h) bills issued by the Land Bank and advances to the said bank which, at the option of the lender, are convertible into bills;
 - (i) debentures of the Land Bank with a maturity of not more than three years;
 - (j) debentures or notes issued by the Industrial Development Corporation of South Africa, Limited, in connection with a scheme for financing the export of capital goods and which have a maturity of not more than three years and which are guaranteed by the Government of the Republic;
 - (k) acceptances of a banking institution which are discountable by the Reserve Bank, not being acceptances of the banking institution concerned itself or of a subsidiary or fellow subsidiary of the banking institution concerned or of a banking institution by which the banking institution concerned is controlled directly or indirectly;
 - (l) self-liquidating bills or promissory notes arising out of the movement of goods, with a maturity not exceeding one hundred and twenty days, or six months in the case of agricultural bills, and which are discountable by the Reserve Bank;
 - (m) securities of the South African Reserve Bank with a maturity of not more than three years; and
 - (n) any asset which ranked as a liquid asset at the commencement of the Financial Institutions Amendment Act, 1972, and which has not yet attained its first redemption date after the said commencement;";
- (ii) for the definition of "long-term liability" of the following definition:
- "'long-term liability', in relation to any date, means a liability (including a loan from or a deposit by another banking institution) which is payable after the expiration of more than six months as from that date or which on that date is subject to notice which makes it payable after more than six months;";

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- (iii) for the definition of "medium-term liability" of the following definition:

"'medium-term liability', in relation to any date, means a liability (including a loan from or a deposit by another banking institution) which is payable on or after the thirty-first day as from that date but not later than the day on which a period of six months as from that date expires, or which on that date is subject to notice which makes it payable on or after the thirty-first day as from that date but not later than the day on which a period of six months as from that date expires, and includes savings deposits;"

- (iv) for the definition of "prescribed investments" of the following definition:

"'prescribed investments' means the aggregate amount of—

- (a) stocks of the Government, other than the stocks mentioned in the definition of "liquid assets";
- (b) debentures or stock guaranteed by the Government;
- (c) stocks of, loans to and deposits with any local authority in the Republic;
- (d) debentures or stock of the Rand Water Board or the Electricity Supply Commission;
- (e) debentures of the Land Bank, other than such debentures mentioned in the definition of "liquid assets"; and
- (f) such bills, bonds or securities as the Registrar may by notice in the *Gazette* approve for the purposes of this definition subject to such conditions as he may specify in such notice, and also those issued by an institution which he has likewise approved by such notice;"

- (v) for the definition of "short-term liability" of the following definition:

"'short-term liability', in relation to any date, means a liability (including a loan from or a deposit by another banking institution) which is payable on or before the thirtieth day as from that date, or which on that date is subject to notice which makes it payable on or before the thirtieth day as from that date;"

- (b) by the deletion of paragraph (iii) of the proviso to subsection (2);

- (c) by the insertion after subsection (2) of the following subsection:

"(2A) A person (including a co-operative society) other than a person who solicits or advertises for deposits, shall not be deemed to be carrying on the business of accepting deposits for the purposes of this Act if he does not at any time hold deposits from more than twenty persons or deposits amounting in the aggregate to more than five hundred thousand rand: Provided that for the purposes of this subsection a person and any company controlled directly or indirectly by him (whether such control be by way of shareholding or otherwise) or administered by him and the subsidiary of any such company shall be deemed to be one person."; and

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(d) by the addition to subsection (6) of the following paragraphs:

“(f) after the commencement of the Financial Institutions Amendment Act, 1972, the institution, directly or indirectly undertakes to guarantee the repayment of a loan or a deposit which a person in the Republic (other than a banking institution) makes to or with another person in the Republic (other than a banking institution) or to sell a loan, made by the institution, on a condition in terms of which the loan is to be repurchased by the institution on a future date;

(g) an institution makes a loan to or a deposit with a subsidiary company which is a banking institution to enable the said subsidiary company to comply on a certain date with the provisions of the Act in respect of liquid assets.”.

13. The following section is hereby substituted for section 16 of the Banks Act, 1965:

Substitution of section 16 of Act 23 of 1965.

“Minimum reserve balance.

16. (1) A banking institution (other than a discount house) shall maintain a reserve balance with the Reserve Bank amounting to not less than eight per cent of its short-term liabilities to the public in the Republic, other than liabilities under acceptances, as shown in the last preceding monthly return furnished by it to the Registrar in terms of section 13 (1) (a).

(2) For the purposes of the provisions of subsection (1)—

(a) a commercial bank (as defined in section (3)) may deduct from its short-term liabilities—

(i) the amount referred to in proviso (ii) to section 14 (1); and

(ii) the amount of a clearance liability resulting from a balance referred to in proviso (i) to section 17 (1); and

(b) a banking institution may deduct from its short-term liabilities the amounts which may in terms of proviso (iii) to section 17 (1) be deducted from the liabilities referred to in paragraph (a) of that section.”.

14. The following section is hereby substituted for section 17 of the Banks Act, 1965:

Substitution of section 17 of Act 23 of 1965, as amended by section 4 of Act 23 of 1970.

“Minimum liquid assets.

17. (1) A banking institution (other than a discount house) shall maintain in the Republic liquid assets amounting to not less than the aggregate of—

(a) thirty per cent of its short-term liabilities to the public in the Republic, other than liabilities under acceptances;

(b) twenty per cent of its medium-term liabilities to the public in the Republic, other than liabilities under acceptances;

(c) five per cent of its long-term liabilities to the public in the Republic; and

(d) ten per cent of its liabilities under acceptances, as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of subsection (1) of section thirteen: Provided that for the purposes of this subsection—

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- (i) the credit balance which in the case of a commercial bank (as defined in subsection (3)) originates from a clearing house settlement or a similar settlement between commercial banks shall be deemed not to be a liability to the public and a debit balance of such bank which originates from a clearing house settlement or a similar transaction between commercial banks shall be deemed not to be a liquid asset;
 - (ii) a commercial bank may effect the deduction referred to in proviso (ii) to subsection (1) of section *fourteen* from the liabilities referred to in paragraph (a) hereof;
 - (iii) a banking institution may deduct from the liabilities referred to in paragraphs (a), (b) and (c) the amounts owing to it in respect of loans made by it against the security of fixed deposits included under the said paragraphs; and
 - (iv) the aggregate amount of—
 - (aa) acceptances; and
 - (bb) self-liquidating bills or promissory notes arising out of the movement of goods and discountable by the Reserve Bank, with a maturity not exceeding one hundred and twenty days or, in the case of agricultural bills, six months,which rank as liquid assets, shall not exceed twenty per cent of the total amount of liquid assets to be maintained by a banking institution in terms of this subsection after deduction of the reserve balance referred to in section 16, without, however, any of the foregoing provisions of this paragraph prohibiting a banking institution from holding, for purposes other than liquid assets, any such acceptances, bills or promissory notes in excess of the aggregate amount which may, in terms of the said foregoing provisions, be included in liquid assets.
- (2) (a) Whenever the Reserve Bank deems it desirable in the national economic interest that supplementary liquid assets be maintained by banking institutions, it may with the consent of the Treasury from time to time determine—
- (i) that in respect of the institutions of a particular class the percentages mentioned in paragraphs (a), (b) and (c) of subsection (1) shall be increased to not more than sixty, forty and ten respectively; or
 - (ii) that every institution of a particular class shall maintain, in addition to the liquid assets required by subsection (1), supplementary liquid assets in the Republic at least equal to—
 - (aa) a percentage prescribed by the Reserve Bank, but not exceeding—
 - (i) seventy per cent of the amount by which the short-term liabilities to the public;
 - (ii) fifty per cent of the amount by which the medium-term liabilities to the public; or
 - (iii) twenty per cent of the amount by which the long-term liabilities to the public,
- payable by the institution in the Republic (as shown in the last pre-

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- ceding monthly return furnished by it to the Registrar in terms of paragraph (a) of subsection (1) of section *thirteen*) exceed the amount of such liabilities as at a date determined by the Reserve Bank and stated by the Registrar in a notice in the *Gazette*; or
- (bb) the sum of two or more amounts calculated in accordance with the provisions of subitems (aa) (i), (ii) and (iii); or
- (iii) that every institution of a particular class shall maintain, in addition to the supplementary liquid assets required to be maintained in terms of subparagraph (i), supplementary liquid assets in terms of subparagraph (ii): Provided that for the purposes of this subparagraph the maximum percentage which the Reserve Bank may determine in terms of subparagraph (ii) in respect of a particular kind of liability, is reduced by the percentage by which the percentage referred to in subsection (1), in respect of the kind of liability concerned, has been increased in terms of subparagraph (i); and
- (iv) that every institution of a particular class shall, in respect of supplementary liquid assets, maintain with the Reserve Bank in cash, or with the National Finance Corporation, an amount which is at least equal to a percentage, prescribed by the Reserve Bank, of the short-term liabilities or of the medium-term liabilities or of the short-term liabilities as well as of the medium-term liabilities of the institution to the public in the Republic: Provided that the limits set forth in subparagraphs (i), (ii) and (iii) as the case may be, shall not be exceeded by a determination in terms of this subparagraph.
- (b) (i) Whenever supplementary liquid assets are, in terms of a determination by the Reserve Bank under this subsection, required to be maintained, the aggregate amount of acceptances, bills and promissory notes of the kind referred to in proviso (iv) to subsection (1) shall not exceed twenty per cent of the said supplementary liquid assets after deduction of supplementary liquid assets which are to be maintained in accordance with the provisions of subparagraph (iv) of paragraph (a) of this subsection;
- (ii) Notwithstanding anything contained in this section the Reserve Bank may, whenever supplementary liquid assets are required to be maintained in terms of a determination under this subsection, further determine that acceptances, bills or promissory notes of the kind referred to in subparagraph (i), shall not rank as supplementary liquid assets for the purposes of such determination.
- (c) Whenever the Reserve Bank has made a determination in terms of paragraph (a) or para-

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graphs (a) and (b), it shall inform the Registrar thereof in writing, and the Registrar shall as soon as practicable give written notice of the determination to every institution of the class to which the determination applies, and cause the determination to be published in the *Gazette*.

- (d) Any such determination shall take effect on a date mentioned in the notice in the *Gazette*.
- (e) With the consent of the Treasury, the Reserve Bank may at any time vary an existing determination by increasing or decreasing any percentage determined by it in terms of paragraph (a).
- (f) The provisions of paragraphs (c) and (d) shall apply *mutatis mutandis* to a variation referred to in paragraph (e).
- (g) Notwithstanding anything contained in paragraph (a), no banking institution shall be required to augment its liquid assets during any month of the year by an amount in excess of ten per cent of its short-term and its medium-term liabilities respectively and five per cent of its long-term liabilities as at the close of the last working day of the preceding month.

(3) For the purposes of section 16 (2) and provisos (i) and (ii) to subsection (1) a commercial bank shall be deemed to include any banking institution which has a branch system, which accepts money on deposit withdrawable by cheque and which has been admitted to the clearing house of banks.”.

15. The following section is hereby substituted for section 18 of the Banks Act, 1965:

Substitution of section 18 of Act 23 of 1965.

“Minimum prescribed investments.

18. A banking institution (other than a discount house) shall maintain in the Republic prescribed investments of an amount not less than ten per cent of its long-term liabilities to the public in the Republic, as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of subsection (1) of section *thirteen*: Provided that of such prescribed investments an amount equal to not less than five per cent of the said long-term liabilities, shall consist of securities issued by the Government of the Republic and which rank as a prescribed investment.”.

16. (1) Section 21 of the Banks Act, 1965, is hereby amended—

Amendment of section 21 of Act 23 of 1965, as amended by section 5 of Act 23 of 1970.

- (a) by the substitution for subsection (4) of the following subsection:

“(4) (a) A banking institution shall not allow any one person to maintain with it a credit balance on savings account in excess of fifteen thousand rand: Provided that nothing in this subsection contained shall preclude an institution from crediting interest to a savings account.

- (b) Where on the nineteenth day of August, 1971, the credit balance on a savings account lawfully exceeded fifteen thousand rand, such balance shall not by reason of the provisions of paragraph (a) be required to be reduced to the said amount: Provided that—

- (i) no further amount other than interest shall be credited to such account so long as it shows a credit balance exceeding the said amount; and

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- (ii) if the balance in such account is at any time reduced to fifteen thousand rand or less, the limit prescribed by paragraph (a) shall also apply to it.”; and
- (b) by the substitution for subsection (7) of the following subsection:
- “(7) Where the limit prescribed by paragraph (a) of subsection (4) is exceeded as a result of the amalgamation of two or more institutions or the transfer of the assets and liabilities of any institution to another, the provisions of paragraph (b) of subsection (4) shall *mutatis mutandis* apply as if the savings account in question had been in existence on the nineteenth day of August, 1971.”.
- (2) Subsection (1) shall be deemed to have come into operation on 20 August, 1971.

17. The following section is hereby inserted in the Banks Act, 1965, after section 46:

Insertion of section 46A in Act 23 of 1965.

“Default in maintaining prescribed ratio or minimum amount.

46A. A banking institution which at any time fails to maintain a ratio prescribed or minimum amount prescribed by or under this Act shall forthwith report the failure to the Registrar, and if the deficiency or excess is not corrected immediately, the banking institution may in writing apply to the Registrar for an extension of time within which to correct such deficiency or excess and the Registrar may, if the reasons for the failure are acceptable to him, fix a period within which the banking institution shall correct such deficiency or excess and may on good cause shown from time to time extend such period.”.

18. (1) Section 26 of the Building Societies Act, 1965, is hereby amended—

Amendment of section 26 of Act 24 of 1965, as amended by section 6 of Act 64 of 1968 and section 7 of Act 23 of 1970.

- (a) by the substitution for subsection (2) of the following subsection:
- “(2) A society shall not accept savings deposits from any company with limited liability, except in the case of an association licensed in terms of section 21 of the Companies Act, 1926 (Act No. 46 of 1926): Provided that a society may accept savings deposits from any company with limited liability in so far as the moneys so invested with the society represent deposits referred to in paragraphs (a) and (b) of the proviso to section 25 (2) of the Rents Act, 1950 (Act No. 43 of 1950).”;
- (b) by the substitution for subsection (4) of the following subsection:
- “(4) A society shall not allow any one person to maintain with it a credit balance on savings account in excess of—
- (a) five thousand rand if the society’s total assets as at the close of the last preceding financial year did not exceed five hundred thousand rand; or
- (b) fifteen thousand rand if the said assets at the close of such financial year exceeded five hundred thousand rand:
- Provided that nothing in this subsection contained shall preclude a society from crediting interest to a savings account.”;
- (c) by the substitution for subsection (5) of the following subsection:

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“(5) Where on the nineteenth day of August, 1971, the credit balance on a savings account lawfully exceeded the limit prescribed by subsection (4), such balance shall not by reason of the provisions of the said subsection be required to be reduced: Provided that—

- (a) no further amount other than interest shall be credited to such account so long as it shows a credit balance exceeding the said limit; and
- (b) if the balance in such account is at any time reduced to below the said limit, such limit shall also apply to it.”;

- (d) by the substitution for subsection (6) of the following subsection:

“(6) Where the limit prescribed by subsection (4) is exceeded as a result of an amalgamation of two or more societies or the transfer of assets and liabilities of any society to another society, the provisions of subsection (5) shall *mutatis mutandis* apply as if the savings account in question had been in existence on the nineteenth day of August, 1971, and had exceeded that limit on that date.”; and

- (e) by the substitution for subsection (9) of the following subsection:

“(9) A society shall repay a fixed deposit on due date and not earlier, but shall not be required to repay it on due date where the depositor concerned has previously instructed it in writing as to the manner in which the deposit or any portion thereof is to be re-invested with the society: Provided that a fixed deposit which is being reinvested may be reinvested for a shorter period than twelve months but may be re-invested for such shorter period once only.”.

- (2) Subsection (1) shall be deemed to have come into operation on 20 August, 1971.

19. (1) Section 32 of the Building Societies Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 32 of Act 24 of 1965.

“(1) A permanent society shall maintain prescribed investments to an amount not less than ten per cent of its liabilities to the public inclusive of all classes of shares issued by it but excluding the amount of advances granted but not yet paid out, as shown in the last preceding monthly return furnished by it to the registrar in terms of subsection (1) of section 34: Provided that the Minister may exempt permanent societies from the provisions of this subsection for such periods and on such conditions as he may determine.”.

- (2) Subsection (1) shall be deemed to have come into operation on 20 August, 1971.

20. (1) This Act shall be called the Financial Institutions Amendment Act, 1972, and the provisions of sections 12, 13, 14, 15 and 17 thereof shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*. Short title and commencement.

- (2) Different dates may in terms of subsection (1) be fixed in respect of the different provisions referred to in the said subsection.