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No. 11892

KAAPSTAD, 26 MEI 1989

STATE PRESIDENT'S OFFICE

No. 1044.

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. 53 of 1989: Financial Institutions Amendment Act, 1989.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1044.

26 Mei 1989

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

No. 53 van 1989: Wysigingswet op Finansiële Instellings, 1989.

Act No. 53, 1989

FINANCIAL INSTITUTIONS 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, the Pension Funds Act, 1956, and the Friendly Societies Act, 1956, so as to abolish the obligation imposed on insurers, pension funds and friendly societies to invest in prescribed assets; and to empower the Minister of Finance to make regulations which limit the amount which registered insurers, funds and societies may invest in particular kinds or categories of assets; and to provide for matters connected therewith.

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

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

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 and section 4 of Act 86 of 1984 5

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

- (a) by the deletion of subsections (2), (2A), (3), (5) and (5A); and
- (b) by the substitution for subsections (5B) and (6) of the following subsections, respectively: 10

“(5B) Any regulation made under paragraph (a) (ii) or (b) (ii) of subsection (4) which prescribes a percentage that is higher than that in force at the commencement of such regulation, shall also prescribe the manner in which a domestic insurer who immediately after such commencement does not comply with the provisions of subsection (4) **[or (5)]** shall comply therewith. 15

(6) The provisions of **[subsections]** subsection (4) **[(5) and (5A)]** (except the provisions **[of subsection (4)]** as to the additional amounts referred to in paragraphs (a) and (b) of the said subsection (4)) shall *mutatis mutandis* apply to every domestic insurer in respect of his compulsory third party insurance business.”. 20

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 25

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

- (a) by the deletion of subsections (2), (3), (5) and (5A); and

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- (b) by the substitution for subsections (5B) and (6) of the following subsections, respectively:

“(5B) Any regulation made under paragraph (b) of subsection (4) which prescribes a percentage that is higher than that in force at the commencement of such regulation, shall also prescribe the manner in which a foreign insurer who immediately after such commencement does not comply with the provisions of subsection (4) **[or (5)]** shall comply therewith. 5

(6) The provisions of **[subsections]** subsection (4) **[(5) and (5A)]** (except the provisions **[of subsection (4)]** as to the additional amount referred to in the said subsection (4)) shall *mutatis mutandis* apply to every foreign insurer in respect of his compulsory third party insurance business.”. 10

Repeal of section 18bis of Act 27 of 1943, as substituted by section 4 of Act 91 of 1972 and amended by section 5 of Act 94 of 1977, section 6 of Act 103 of 1979, section 7 of Act 99 of 1980 and section 6 of Act 86 of 1984

3. Section 18bis of the Insurance Act, 1943, is hereby repealed. 15

Repeal of section 18ter of Act 27 of 1943, as inserted by section 4 of Act 80 of 1978

4. Section 18ter of the Insurance Act, 1943, is hereby repealed.

Amendment of section 29bis of Act 27 of 1943, as inserted by section 23 of Act 10 of 1965 and amended by section 11 of Act 103 of 1979

5. Section 29bis of the Insurance Act, 1943, is hereby amended by the substitution for subsection (1) of the following subsection: 20

“(1) If any registered insurer fails to comply within a period of thirty days after having been called upon in writing by the registrar to do so, with any requirement of the registrar in terms of subsection (7) of section *six* or any provisions of section *eleven, twelve, fourteen, seventeen or eighteen* **[including any such provision as applied by section *eighteen bis*]**, the registrar may, with the consent of the Minister, by notice in writing prohibit such insurer, with effect from a date specified in the notice, from issuing any further policies other than paid-up policies in terms of subsection (2) of section *sixty-two* and such other policies as the registrar may permit, or extending any existing policy by endorsement, until such time as such insurer has satisfied the registrar that he is complying with the said requirement or provisions, whereupon the registrar shall forthwith in writing withdraw the prohibition.”. 25 30

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 and section 7 of Act 86 of 1984 35

6. Section 60 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (l) of subsection (1) of the following paragraph:

“(l) The moneys deposited in the trust account aforesaid may be invested in assets of the kinds mentioned in the Third Schedule, other than those mentioned in items 1, 7 and 8 **[provided—** 40

(i) such assets include assets of the kind mentioned in Part I of the Third Schedule, which together with any credit balance in the trust account shall have an aggregate value not less than fifty per cent of the amount of such balance and all assets in which such moneys have so been invested].”.

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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

7. Section 76 of the Insurance Act, 1943, is hereby amended by the insertion after paragraph (bB) of subsection (1) of the following paragraphs: 5

- “(bC) limiting the amount which and the extent to which a registered insurer may invest in particular assets or in particular kinds or categories of assets, prescribing the basis on which the limit shall be determined and defining the kinds or categories of assets to which the limit applies; 10
- “(bD) authorizing the registrar to grant unconditional or conditional exemption, whether unlimited or limited in duration, from provisions of the regulations contemplated in paragraph (bC);”.

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 and section 5 of Act 51 of 1988 15

8. Section 19 of the Pension Funds Act, 1956, is hereby amended— 20
- (a) by the deletion of subsections (1), (2) and (3);
- (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 subsection (1) and] registrar 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 (5B) (a).”; and 25
- (c) by the deletion of subsection (8).

Amendment of section 36 of Act 24 of 1956, as amended by section 18 of Act 103 of 1979 and section 18 of Act 86 of 1984 30

9. Section 36 of the Pension Funds Act, 1956, is hereby amended by the insertion after paragraph (bA) of the following paragraphs:

- “(bB) limiting the amount which and the extent to which a fund may invest in particular assets or in particular kinds or categories of assets, prescribing the basis on which the limit shall be determined and defining the kinds or categories of assets to which the limit applies; 35
- “(bC) authorizing the registrar to grant unconditional or conditional exemption, whether unlimited or limited in duration, from provisions of the regulations contemplated in paragraph (bB);”.

Amendment of section 20 of Act 25 of 1956, as amended by section 15 of Act 80 of 1959, section 32 of Act 43 of 1975, section 28 of Act 101 of 1976 and section 43 of Act 99 of 1980

10. Section 20 of the Friendly Societies Act, 1956, is hereby amended— 45
- (a) by the deletion of subsections (2), (3) and (4); and
- (b) by the substitution for subsection (6) of the following subsection:
- “(6) The [Minister may exempt either wholly or in part any society established or conducted by a religious institution from compliance with the provisions of subsection (2), and the] registrar may, under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any society from compliance with any provision of subsection [(2) or] (5).”.

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Amendment of section 47 of Act 25 of 1956, as amended by section 26 of Act 103 of 1979 and section 21 of Act 86 of 1984

11. Section 47 of the Friendly Societies Act, 1956, is hereby amended by the insertion after paragraph (bA) of the following paragraphs:

- “(bB) limiting, notwithstanding the provisions of section 20 (1), the amount which 5
and the extent to which a society may invest in particular assets or in
particular kinds or categories of assets, prescribing the basis on which the
limit shall be determined and defining the kinds or categories of assets to
which the limit applies;
“(bC) authorizing the registrar to grant unconditional or conditional exemption, 10
whether unlimited or limited in duration, from provisions of the regulations
contemplated in paragraph (bB);”.

Short title and commencement

12. (1) This Act shall be called the Financial Institutions Amendment Act, 1989, and shall come into operation on a date to be fixed by the State President by 15
proclamation in the *Gazette*.

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