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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 367.

5 March 1993

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

No. 7 of 1993: Financial Institutions Amendment Act, 1993.

No. 367.

5 Maart 1993

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

No. 7 van 1993: Wysigingswet op Finansiële Instellings, 1993.

GENERAL EXPLANATORY NOTE:

- [** **]** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Insurance Act, 1943, the Pension Funds Act, 1956, the Friendly Societies Act, 1956, and the Unit Trusts Control Act, 1981, so as, in the case of every such Act, to extend the powers of the Minister of Finance to make regulations regarding matters in respect of which fees must be paid; and to make provision that overdue fees, and interest payable in respect thereof, may be recovered in a competent court; to amend the Participation Bonds Act, 1981, so as to grant the Minister of Finance the power to make regulations regarding matters in respect of which fees shall be payable, and any other necessary or expedient matter; to amend the Inspection of Financial Institutions Act, 1984, so as to delete a superfluous provision regarding expenses of inspections; to amend the Stock Exchanges Control Act, 1985, so as to make provision that approvals by the Registrar of Stock Exchanges contemplated in section 4(1)(f) of the said Act, shall be effected on payment of the prescribed fees; to make provision that applications for the issue or renewal of stock exchanges licences shall be accompanied by the prescribed fees; to reduce the licence fees payable in respect of such applications; to make provision that applications for the granting of certificates authorizing the issue or renewal of licences for the carrying on of the business of carrier against shares shall be accompanied by the prescribed fees; and to extend the powers of the Minister of Finance to make regulations regarding matters in respect of which fees must be paid; to amend the Financial Markets Control Act, 1989, so as to make provision that approvals by the Registrar of Financial Markets contemplated in section 5(1)(h) of the said Act, shall be effected on payment of the prescribed fees; to make provision that applications for the renewal of financial market licences be accompanied by the prescribed fees, and that certificates for the issue or renewal of the said licences be issued on payment of the prescribed fees; and to extend the powers of the Minister of Finance to make regulations regarding matters in respect of which fees must be paid; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 26 February 1993.)

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

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, section 18 of Act 54 of 1989 and section 11 of the Financial Institutions Amendment Act, 1992

1. Section 76 of the Insurance Act, 1943, is hereby amended— 5

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

“(bA) prescribing matters in addition to those contemplated in any other provision of this Act in respect of which fees shall be payable, [and] the fee payable in respect of each such matter, and, in relation to such fees as well as fees payable under any such other provision of this Act, the persons by whom the fees shall be payable, the manner of payment thereof and, where it is deemed necessary, the payment of interest in respect of overdue fees;” and 10 15

(b) by the addition of the following subsection:

“(3) Fees which are in terms of or by virtue of a provision of this Act payable, and interest so payable in respect of overdue fees, shall be a debt due to the Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the registrar by action in any competent court.” 20

Amendment of section 36 of Act 24 of 1956, as amended by section 18 of Act 103 of 1979, section 18 of Act 86 of 1984, section 9 of Act 53 of 1989 and section 27 of the Financial Institutions Amendment Act, 1992 25

2. Section 36 of the Pension Funds Act, 1956, is hereby amended—

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

“(bA) prescribing matters in addition to those contemplated in any other provision of this Act in respect of which fees shall be payable, [and] the fee payable in respect of each such matter, and, in relation to such fees as well as fees payable under any such other provision of this Act, the persons by whom the fees shall be payable, the manner of payment thereof and, where it is deemed necessary, the payment of interest in respect of overdue fees;” and 30 35

(b) by the addition of the following subsection:

“(3) Fees which are in terms of or by virtue of a provision of this Act payable, and interest so payable in respect of overdue fees, shall be a debt due to the Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the registrar by action in any competent court.” 40

Amendment of section 37 of Act 24 of 1956, as amended by section 14 of Act 65 of 1968, section 19 of Act 86 of 1984, section 13 of Act 50 of 1986 and section 28 of the Financial Institutions Amendment Act, 1992 45

3. Section 37 of the Pension Funds Act, 1956, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) Any penalty payable under subsection (2) shall be a debt due to the [Union Government] Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the registrar by action in any competent court.” 50

Amendment of section 47 of Act 25 of 1956, as amended by section 26 of Act 103 of 1979, section 21 of Act 86 of 1984 and section 11 of Act 53 of 1989

4. Section 47 of the Friendly Societies Act, 1956, is hereby amended—

(a) by the substitution for paragraph (bA) of the following paragraph:

“(bA) prescribing matters in addition to those contemplated in any other provision of this Act in respect of which fees shall be payable, [and] the fee payable in respect of each such matter, and, in relation to such fees as well as fees payable under any such other provision of this Act, the persons by whom the fees shall be payable, the manner of payment thereof and; where it is deemed necessary, the payment of interest in respect of overdue fees;”;

(b) by the addition of the following subsection, the existing section becoming subsection (1):

“(2) Fees which are in terms of or by virtue of a provision of this Act payable, and interest so payable in respect of overdue fees, shall be a debt due to the Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the registrar by action in any competent court.”

Amendment of section 48 of Act 25 of 1956, as amended by section 31 of Act 101 of 1976

5. Section 48 of the Friendly Societies Act, 1956, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) Any penalty payable under subsection (2) shall be a debt due to the [Union Government] Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the registrar by action in any competent court.”

Amendment of section 42 of Act 54 of 1981

6. Section 42 of the Unit Trusts Control Act, 1981, is hereby amended—

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

“(1) The Minister may make regulations with regard to—
(a) any matter which, in terms of any provision of this Act, is required or permitted to be prescribed, or which it may be necessary or expedient to prescribe in order that the provisions of this Act may be effectively and conveniently administered;

(b) any matter in respect of which it is deemed necessary that fees shall be payable to the registrar, the fee payable in respect of any such matter, the persons by whom fees shall so be payable and the manner of payment thereof;

(c) where it is deemed necessary, the payment of interest in respect of overdue fees referred to in paragraph (b).”;

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

“(5) Any penalty payable under subsection (3) and fee and interest payable under subsection (1)(b) and (c), shall be a debt due to the [Government] Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the registrar by action in any competent court.”

Insertion of section 14B in Act 55 of 1981

7. The following section is hereby inserted in the Participation Bonds Act, 1981, after section 14A:

“Regulations

14B. (1) The Minister of Finance may make regulations with regard to—

- (a) any matter in respect of which it is deemed necessary that fees shall be payable to the registrar, the fee payable in respect of any such matter, the persons by whom fees shall be so payable, and the manner of payment thereof; 5
- (b) where it is deemed necessary, the payment of interest in respect of overdue fees referred to in paragraph (a);
- (c) any other matter which is necessary or expedient to be prescribed in order to achieve the objects of this Act. 10

(2) Fees and interest payable under subsection (1), shall be a debt due to the Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the registrar by action in any competent court.”. 15

Repeal of section 7 of Act 38 of 1984

8. Section 7 of the Inspection of Financial Institutions Act, 1984, is hereby repealed.

Amendment of section 4 of Act 1 of 1985

9. Section 4 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution for paragraph (f) of subsection (1) of the following paragraph:

- “(f) a person who—
- (i) has, after an application for approval accompanied by the prescribed fee, been approved by the Registrar on payment of the prescribed fee; or 25
 - (ii) **[a person who]** is a member of a category of persons which has been approved by the Registrar,”.

Amendment of section 7 of Act 1 of 1985, as amended by section 38 of Act 55 of 1989

10. Section 7 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) Every application relating to the issue or renewal of such a licence shall be in the form prescribed and be accompanied by the prescribed fee and, in the case of an application in respect of the issue of any such licence, also by not less than five copies of the rules of the association.” 35

Amendment of section 9 of Act 1 of 1985

11. Section 9 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution in subsection (4) for the words preceding the proviso of the following words:

- “A licence fee [of R2 000] as prescribed shall be payable in respect of the issue or renewal of any such licence.” 40

Amendment of section 12 of Act 1 of 1985, as amended by section 29 of Act 51 of 1988 and section 38 of Act 55 of 1989

12. Section 12 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) No addition to or alteration (other than a suspension) of the rules of an association which is the holder of a stock exchanges licence shall be valid unless it has, on application by such association and on payment by it of the prescribed fee, been approved by the Registrar, and if he approves thereof, such addition or alteration shall come into operation on a date mentioned in the approval.”

Amendment of section 31 of Act 1 of 1985

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

“(1) The Registrar may, upon application made in the prescribed form and manner, and on payment of the prescribed fee, grant to any person a certificate authorizing a receiver of revenue to issue to that person a licence to carry on the business of a carrier against shares, or to renew such licence.”

Amendment of section 51 of Act 1 of 1985

14. Section 51 of the Stock Exchanges Control Act, 1985, is hereby amended—

(a) by the deletion in subsection (1) of the word “and” at the end of paragraph (e), and the insertion after the said paragraph (e) of the following paragraph:

“(eA) matters in addition to those contemplated in any other provision of this Act in respect of which fees shall be payable, the fee payable in respect of each such matter, and, in relation to such fees as well as fees payable under any such other provision of this Act, the persons by whom the fees shall be payable, the manner of payment thereof and, where it is deemed necessary, the payment of interest in respect of overdue fees; and”; and

(b) by the addition of the following subsection:

“(4) Fees which are in terms of or by virtue of a provision of this Act payable, and interest so payable in respect of overdue fees, shall be a debt due to the Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the Registrar by action in any competent court.”

Amendment of section 5 of Act 55 of 1989

15. Section 5 of the Financial Markets Control Act, 1989, is hereby amended by the substitution for paragraph (h) of subsection (1) of the following paragraph:

“(h) a person who—
(i) has, after an application for approval accompanied by the prescribed fee, been approved by the Registrar on payment of the prescribed fee; or
(ii) [who] is a member of a category of persons which has been approved by the Registrar.”

Amendment of section 7 of Act 55 of 1989

16. Section 7 of the Financial Markets Control Act, 1989, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Every application relating to the issue or renewal of a financial market licence shall be made in the prescribed manner and shall be accompanied by the prescribed fee and, in the case of an application in respect of the issue of any such licence, also by not fewer than five copies of the proposed rules.”

Amendment of section 8 of Act 55 of 1989

17. Section 8 of the Financial Markets Control Act, 1989, is hereby amended by the addition of the following subsection:

“(3) A certificate for the issue or renewal of a financial market licence shall be granted on payment of the prescribed fee.”

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Amendment of section 17 of Act 55 of 1989, as amended by section 25 of Act 54 of 1991

18. Section 17 of the Financial Markets Control Act, 1989, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) No addition to or alteration of rules shall be valid before it has, on payment of the prescribed fee, been approved by the Registrar in writing.”

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Amendment of section 37 of Act 55 of 1989

19. Section 37 of the Financial Markets Control Act, 1989, is hereby amended—

(a) by the deletion in subsection (1) of the word “and” at the end of paragraph (g), and the insertion after the said paragraph (g) of the following paragraph:

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“(gA) matters in addition to those contemplated in any other provision of this Act in respect of which fees shall be payable, the fee payable in respect of each such matter, and, in relation to such fees as well as fees payable under any such other provision of this Act, the persons by whom the fees shall be payable, the manner of payment thereof and, where it is deemed necessary, the payment of interest in respect of overdue fees; and”

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(b) by the addition of the following subsection:

“(3) Fees which are in terms of or by virtue of a provision of this Act payable, and interest so payable in respect of overdue fees, shall be a debt due to the Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the Registrar by action in any competent court.”

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Short title and commencement

20. (1) This Act shall be called the Financial Institutions Amendment Act, 1993, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

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