

South Africa

South African Postbank SOC Limited Act, 2010

Act 9 of 2010

Legislation as at 19 February 2024

FRBR URI: /akn/za/act/2010/9/eng@2024-02-19

There may have been updates since this file was created.

PDF created on 22 February 2024 at 13:53.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from LawLibrary and is presented in collaboration with the African Legal Information Institute, the Judicial Institute for Africa and the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.lawlibrary.org.za | info@lawlibrary.org.za

www.laws.africa | info@laws.africa

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

South African Postbank SOC Limited Act, 2010

Contents

Chapter I – Interpretation and object of Act	1
1. Definitions	1
2. Object of Act	2
Chapter II – Incorporation and transfer of enterprise	3
3. Incorporation	3
4. ***	4
5. Determination of extent of business to be transferred	4
6. Determination of transfer date of enterprise	4
7. Transfer of enterprise of former Postbank to Company, vesting and consequence thereof	5
8. ***	5
Chapter III – Powers and duties of Company	5
9. Powers and duties of Company	5
Chapter IV – Control and management of Company	5
10. Control of Company by Board	5
11. Functions of Board	6
12. Composition of Board	6
13. Disclosure and disqualification from membership of Board	7
14. Appointment of members of Board	8
15. Resignation, removal from office and vacating of office	9
15A. Functions of bank controlling company	9
16. Disclosure and fiduciary duties of Board members	10
17. Procedures at meetings, and committees of Board	11
18. Appointment of chief executive officer and chief financial officer	11
19. Conditions of appointment of chief executive officer and chief financial officer	12
20. Personnel of Company	13
20A. Bank controlling company's organisational structure	13
Chapter V – Funds and financial accounts of company	14
21. Annual report	14
22. Funds of Company and bank controlling company	14
23. Inspection of financial accounts and documents of Company and bank controlling company	14
24. Application of Public Finance Management Act	14
Chapter VI – General and miscellaneous	14
25. Intervention by Minister	14
26. Regulations and policy	16

26A. Application of Banks Act	16
27. Non-application of provision of Companies Act	16
28. Exemption from certain provisions of Companies Act	16
29. Offences	17
30. Transitional provisions	17
31. Repeal of laws	17
32. Short title and commencement	18
Schedule 1 (Section 31)	18

South Africa

South African Postbank SOC Limited Act, 2010

Act 9 of 2010

Published in Government Gazette 33835 on 3 December 2010

Assented to on 1 December 2010

Commenced on 22 July 2011 by [South African Postbank Limited Act, 2010: Commencement](#)

[This is the version of this document from 19 February 2024.]

*[Amended by [South African Postbank Limited Amendment Act, 2013 \(Act 44 of 2013\)](#) on 27 January 2014]
[Amended by [South African Post Bank Limited Amendment Act, 2023 \(Act 10 of 2023\)](#) on 19 February 2024]*

(English text signed by the President)

ACT

To provide for the incorporation of the Postbank Division of the South African Post Office; to provide for the transfer of the enterprise of that Division to the Postbank company; to provide for the governance and functions of the Postbank company; to provide for the transfer in shareholding from the South African Post Office to Government through the creation of a bank controlling company for The Postbank SOC Limited in terms of the Banks Act, 1990; and to provide for matters connected therewith.

[long title substituted by section 17 of [Act 10 of 2023](#)]

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

Chapter I

Interpretation and object of Act

1. Definitions

In this Act, unless the context indicates otherwise, any word or expression to which a meaning has been ascribed in section [1](#) of the Public Finance Management Act, bears the meaning so ascribed, and—

"banking services" means the services rendered in the course of the business of a bank as contemplated in the Banks Act;

[definition of "banking services" inserted by section 1(a) of [Act 10 of 2023](#)]

"Banks Act" means the Banks Act, 1990 ([Act No. 94 of 1990](#));

"bank controlling company" means the controlling company of The Postbank SOC Limited and has the meaning ascribed to it in section [1\(1\)](#) of the Banks Act;

[definition of "bank controlling company" inserted by section 1(b) of [Act 10 of 2023](#)]

"Board" means the board of directors of the Company;

"chief executive officer" means the chief executive officer appointed in terms of section [18](#);

[definition of "chief executive officer" inserted by section 1(c) of [Act 10 of 2023](#)]

"chief financial officer" means the chief financial officer appointed in terms of section [18](#);

[definition of "chief financial officer" inserted by section 1(c) of [Act 10 of 2023](#)]

"Commissioner" means the Commissioner as defined in section 1 of the Companies Act;

[definition of "Commissioner" inserted by section 1(c) of [Act 10 of 2023](#)]

"Companies Act" means the Companies Act, 2008 ([Act No. 71 of 2008](#));

[definition of "Companies Act" substituted by section 1(d) of [Act 10 of 2023](#)]

"Company" means The Postbank SOC Limited;

[definition of "Company" substituted by section 1(e) of [Act 10 of 2023](#)]

"family member" in relation to any person, means his or her parent, sibling, child, including an adopted child or a step-child, or spouse (whether by statutory, customary or religious law), and including a life partner who is a person living with that person as if they were married to each other;

"financial services" has the meaning ascribed to it in section 3 of the Financial Sector Regulation Act, 2017 ([Act No. 9 of 2017](#));

[definition of "financial services" inserted by section 1(f) of [Act 10 of 2023](#)]

"former Postbank" means the Postbank referred to in section 51 of the Postal Services Act, 1998 ([Act No. 124 of 1998](#)), as it existed as a division of the Post Office immediately prior to the repeal of that section;

"member" means a member of the Board;

"Minister" means the Minister responsible for communications;

[definition of "Minister" substituted by section 1(a) of [Act 44 of 2013](#)]

"person" means a juristic or natural person;

[definition of "person" inserted by section 1(g) of [Act 10 of 2023](#)]

"Post Office" means South African Post Office Limited established in terms of the Post Office Act;

"Post Office Act" means the Post Office Act, 1958 ([Act No. 44 of 1958](#));

"Postal Services Act" means the Postal Services Act, 1998 ([Act No. 124 of 1998](#));

"Public Finance Management Act" means the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#));

"Registrar of Banks"

[definition of "Registrar of Banks" deleted by section 1(b) of [Act 44 of 2013](#)]

"Republic" means the Republic of South Africa;

"the business of a bank" has the meaning ascribed to it in the Banks Act;

"the business of the former Postbank" means the rights, obligations, assets and liabilities of the former Postbank contemplated in section 5(1);

"this Act" includes any regulation made under section 26;

"transfer date" means the date determined by the Minister in terms of section 6.

2. Object of Act

The object of this Act is to provide for the incorporation of the Postbank Division of the Post Office as a Company and bank controlling company, with the aim of the Company—

- (a) conducting the business of a bank that will encourage and attract savings amongst the people of the Republic;

- (b) rendering financial services, banking services and lending facilities through, amongst others, the infrastructure of the Post Office and any other means of delivery the Company may deem appropriate for its operational needs;
[paragraph (b) substituted by section 2(b) of [Act 10 of 2023](#)]
 - (c) expanding the range of banking services and developing into a bank of first choice, in particular to the rural and lower income markets as well as communities that have little or no access to commercial banking services or facilities;
 - (d) promoting universal and affordable access to banking services;
 - (e) ensuring that the rates and charges of the Company take into consideration the needs of the people in the lower income market;
[paragraph (e) amended by section 2(c) of [Act 10 of 2023](#)]
 - (f) ensuring responsible lending to rural and lower income markets; and
[paragraph (f) substituted by section 2(d) of [Act 10 of 2023](#)]
 - (g) acting as the commercial bank owned by the State to render financial services and banking services to the public.
[paragraph (g) added by section 2(e) of [Act 10 of 2023](#)]
- [section 2 amended by section 2(a) of [Act 10 of 2023](#)]*

Chapter II

Incorporation and transfer of enterprise

3. Incorporation

- (1) The Minister must take the necessary action for the formation and incorporation of a state-owned company and a bank controlling company in terms of the Companies Act.
[subsection (1) substituted by section 3(a) of [Act 10 of 2023](#)]
- (2)
 - (a) The Government shall, upon incorporation of the Company and the bank controlling company, be the shareholder of the bank controlling company.
 - (b) The bank controlling company shall hold 100% shares in the Company on behalf of Government represented by the Minister.
 - (c) The bank controlling company shall exercise oversight over the Postbank and ensure that the Company exercises sound risk management and governance practices, in accordance with the Banks Act.
 - (d) The Minister shall consider and approve any other shareholding with the concurrence of the Minister of Finance and in accordance with the requirements of the Banks Act, the Companies Act and the Financial Sector Regulation Act, 2017 ([Act No. 9 of 2017](#)).*[subsection (2) substituted by section 2 of [Act 44 of 2013](#) and by section 3(b) of [Act 10 of 2023](#)]*
- (3)
 - (a) The name of the Company is 'The Postbank SOC Limited' and no other person, except the Company, may carry on any business or be registered with that name or with a name that is similar to "The Postbank".
 - (b) The name of the bank controlling company is the 'The South African Postbank SOC Limited' and no other entity, other than the Postbank, may carry on any business or be registered with that name or with a name that is similar to "The South African Postbank SOC Limited".*[subsection (3) substituted by section 3(c) of [Act 10 of 2023](#)]*

- (4) The Minister must on behalf of Government, sign and file the Memorandum of Incorporation, Notice of Incorporation and all other documents necessary for the formation and incorporation of the Company and the bank controlling company.

[subsection (4) substituted by section 3(d) of [Act 10 of 2023](#)]

- (5) The Commissioner must—

- (a) register the Memorandum of Incorporation as signed and filed in terms of subsection (4);
- (b) incorporate the Company as a state-owned company under the name 'The Postbank SOC Limited'; and
- (bA) incorporate the bank controlling company as a company under the name 'The South African Postbank SOC Limited'.

[subsection (5) substituted by section 3(e) of [Act 10 of 2023](#)]

- (6) The sole business of the bank controlling company is to act as the controlling company (as defined in section [1\(1\)](#) of the Banks Act).

[subsection (6) substituted by section 3(f) of [Act 10 of 2023](#)]

- (7) The Minister must apply to register the bank controlling company in accordance with section [43](#) of the Banks Act.

[subsection (7) added by section 3(g) of [Act 10 of 2023](#)]

4. ***

[section 4 repealed by section 3 of [Act 44 of 2013](#)]

5. Determination of extent of business to be transferred

- (1) The rights and obligations, assets and liabilities of the former Postbank, including all deposits and investments held by the former Postbank or held with other financial institutions and all rights flowing from financial instruments held by the former Postbank, must be transferred to the Company.
- (2)
 - (a) The extent of the business of the former Postbank must be determined by the Post Office and audited by an auditor registered as such in terms of the Auditing Professions Act, 2005 ([Act No. 26 of 2005](#)), and appointed by the Minister.
 - (b) The auditor may not be associated with either the Post Office or the Company.
- (3) The auditor must, upon the audit contemplated in subsection [\(2\)\(a\)](#)—
 - (a) attach a monetary value to the business of the former Postbank; and
 - (b) report the value thus determined to the Minister.

6. Determination of transfer date of enterprise

As soon as possible after a certificate to commence business has been issued to the Company, as contemplated in section [3](#), the Minister must by notice in the *Gazette* determine the transfer date of the enterprise of the former Postbank to the Company.

7. Transfer of enterprise of former Postbank to Company, vesting and consequence thereof

On the transfer date—

- (a) the management, control and operation of the former Postbank are transferred to the Company;
- (b) the business of the former Postbank vests in the Company;
- (c) subject to compliance with the Labour Relations Act, 1995 ([Act No. 66 of 1995](#)), personnel of the former Postbank is transferred to the Company;
- (d) anything done by or on behalf of the former Postbank must be regarded as having been done by the Company.

8. ***

[section 8 repealed by section 4 of [Act 44 of 2013](#)]

Chapter III Powers and duties of Company

9. Powers and duties of Company

- (1) The Company has the powers to enable it to realise the object referred to in section 2.
[subsection (1) substituted by section 5(a) of Act [Act 44 of 2013](#)]
- (2) (a) The Company, the bank controlling company and the Post Office must, with the concurrence of the Minister and the Minister of Finance, conclude an agreement which governs cooperation between the Company, the bank controlling company and the Post Office.
[paragraph (a) substituted by section 4 of [Act 10 of 2023](#)]
(b) Such agreement must include, amongst others, terms and conditions relating to the utilisation by the Company of infrastructure of the Post Office, envisaged in section 2.
- (3) *[subsection (3) deleted by section 5(b) of [Act 44 of 2013](#)]*

Chapter IV Control and management of Company

10. Control of Company by Board

- (1) The Company is controlled by a board of directors.
- (2) The members of the Board are appointed or reappointed by the Minister, with the concurrence of the Minister of Finance, and the concurrence shall be deemed to have been granted, should such a response not be forthcoming within 30 days from the receipt of the request by the Minister of Finance.
[subsection (2) substituted by section 5(a) of [Act 10 of 2023](#)]
- (3) The members of the Board of the Company and of the bank controlling company are appointed or reappointed by the Minister in the manner contemplated in section 14 and in accordance with the requirements of the Banks Act.
[subsection (3) added by section 5(b) of [Act 10 of 2023](#)]

- (4) The Board of the bank controlling company is made up of ten non-executive members, 50 per cent of which are appointed by the Minister from amongst the Board of the Company.

[subsection (4) added by section 5(b) of [Act 10 of 2023](#)]

- (5) The Minister must determine who the 50 per cent board members, contemplated in subsection (4), are.

[subsection (5) added by section 5(b) of [Act 10 of 2023](#)]

- (6) Chapter IV of the Act applies *mutatis mutandis* to the Board of the bank controlling company.

[subsection (6) added by section 5(b) of [Act 10 of 2023](#)]

11. Functions of Board

The Board—

- (a) must give effect to the corporate plan of the Company as contemplated in section [52](#) of the Public Finance Management Act in order to achieve the objectives of the Company;
- (b) is the accounting authority of the Company;
- (c) provides guidance to the managing director and personnel of the Company concerning the exercise of the functions of the Company;
- (d) must notify the Minister immediately of any matter that may prevent or materially affect the achievement of the objects or financial targets of the Company; and
- (e) generally, must refer to the Minister any matter that may adversely affect the functioning of the Company.

12. Composition of Board

- (1) The Board is made up of—

- (a) not less than five and not more than nine non-executive members appointed from among the persons nominated in terms of section [14\(1\)\(a\)](#); and

[paragraph (a) substituted by section 6(a) of [Act 10 of 2023](#)]

- (b) *[paragraph (b) deleted by section 6(b) of [Act 10 of 2023](#)]*

- (c) The chief executive officer and the chief financial officer, who are executive members of the Board by virtue of office that they hold.

[paragraph (c) substituted by section 6(c) of [Act 10 of 2023](#)]

- (2) The members of the Board must be persons who—

- (a) are committed to fairness, openness and accountability;

[paragraph (a) amended by section 6(d) of [Act 10 of 2023](#)]

- (b) when viewed collectively—

- (i) are representative of a broad cross-section of the population of the Republic; and

- (ii) possess suitable qualifications, expertise and experience in the field of banking, finance and economics, or any other relevant qualifications, expertise and experience; and

[subparagraph (ii) amended by section 6(e) of [Act 10 of 2023](#)]

- (c) are determined to be fit and proper persons in terms of section 1(1A) of the Banks Act.
[paragraph (c) added by section 6(e) of [Act 10 of 2023](#)]
- (3) (a) The non-executive members of the Board must be appointed for a period not exceeding five years.
- (b) The non-executive members of the Board may be re-appointed for one further term not exceeding five years.
- (c) The Minister must appoint at least five non-executive members of the first Board of the Company for a period not exceeding three years.
- (4) The Minister must appoint a Chairperson from amongst the members of the Board.
- (5) The Board may designate any other non-executive member to act as Chairperson if the Chairperson is absent or unable to perform any function.

13. Disclosure and disqualification from membership of Board

- (1) No person may be appointed as a Board member or remain a member of the Board if he or she—
 - (a) is a member of Parliament, any provincial legislature or any municipal council;
 - (b) is an unrehabilitated insolvent;
 - (c) has been declared by a court to be mentally ill or disordered;
 - (d) has at any time been convicted, whether in the Republic or elsewhere, of—
 - (i) theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 ([Act No. 12 of 2004](#)), or any other offence involving dishonesty; or
 - (ii) an offence under this Act;
 - (e) has been sentenced, after the commencement of the [Constitution of the Republic of South Africa](#), 1993 ([Act No. 200 of 1993](#)), to a period of imprisonment of not less than one year without the option of a fine;
 - (f) has at any time been removed from an office of trust on account of misconduct;
[paragraph (f) substituted by section 6(a) of [Act 44 of 2013](#)]
 - (g) has any direct or indirect interest in conflict with the business of the Company; or
[paragraph (g) substituted by section 6(b) of [Act 44 of 2013](#)]
 - (h) is not fit and proper to hold the office of a member of the Board of a banking institution as contemplated in the Banks Act.
[paragraph (h) added by section 6(c) of [Act 44 of 2013](#)]
- (2) A person who is subject to a disqualification contemplated in subsection (1)(a), (1)(b) or (1)(g) may be nominated for appointment as a Board member, but may only be appointed if at the time of such appointment he or she is no longer subject to that disqualification.
- (3) (a) A person nominated for appointment as a member of the Board must, before appointment, submit to the Minister a written statement containing—
 - (i) a full disclosure of all his or her financial interests; and
 - (ii) a declaration that he or she has no direct or indirect interests that are in conflict with the business of the Company as contemplated in subsection (1)(g).
[paragraph (a) amended by section 6(d) of [Act 44 of 2013](#)]

- (b) If, after appointment, a member of the Board acquires any—
 - (i) further financial interest contemplated in paragraph (a)(i), the member must immediately in writing declare that fact to the Minister and the Board; or
 - (ii) direct or indirect interest contemplated in subsection (1)(g), the member must immediately declare that fact to the Minister and the Board.

14. Appointment of members of Board

- (1) For the purpose of appointing the non-executive members of the Board, the Minister must—
 - (a) by notice in at least two national newspapers and in the *Gazette*, invite interested persons, within the period and in the manner determined in the notice, to submit the names of persons envisaged in section 12(1)(a); and
[paragraph (a) substituted by section 7(a) of Act 44 of 2013]
 - (b) *[paragraph (b) substituted by section 7(a) of Act 44 of 2013 and deleted by section 7(a) of Act 10 of 2023]*
- (2) The Minister must appoint a nomination committee to make recommendations to the Minister for the appointment of the non-executive members of the Board contemplated in subsection (1)(a).
- (3) In establishing a nomination committee, the Minister must ensure that the committee broadly reflects the race and gender composition of the Republic.
- (4) The nomination committee, in making a recommendation to the Minister, must consider—
 - (a) the proven skills, knowledge and experience of a candidate in areas of—
 - (i) financial management;
 - (ii) project management;
 - (iii) governance compliance;
 - (iv) risk management;
 - (v) transformation and diversity equity; and
[subparagraph (v) amended by section 7(b) of Act 44 of 2013]
 - (vi) banking experience;
[subparagraph (vi) added by section 7(c) of Act 44 of 2013]
 - (b) the need for representation of historically disadvantaged persons;
 - (c) generally, whether the persons nominated represent a sufficient spread of qualifications, expertise and experience to ensure the efficient and effective functioning of the Company;
 - (d) *[paragraph (d) deleted by section 7(d) of Act 44 of 2013]*
 - (e) whether a candidate has any direct or indirect interest in conflict with the business of the Company as contemplated in section 13(1)(g).
- (5)
 - (a) Nominations of suitable persons as contemplated in subsections (1)(b) or (4) must include at least one and a half times the number of Board members to be appointed.
 - (b) If a suitable person or the required number of suitable persons are not nominated as contemplated in subsections (1)(b) or (4), the Minister may, with the concurrence of the Minister of Finance, identify and appoint the required number of further members.
[paragraph (b) substituted by section 7(b) of Act 10 of 2023]

- (6) (a) The Minister must, within 30 days after concurrence has been reached with the Minister of Finance regarding the appointment of members as contemplated in section 10(2)—
 - (i) *[subparagraph (i) deleted by section 7(d) of [Act 10 of 2023](#)]*
 - (ii) appoint the other non-executive members of the Board from suitable persons nominated as contemplated in subsection (4).
[paragraph (a) amended by section 7(c) of [Act 10 of 2023](#)]
- (b) The Minister must cause the names of the members appointed and the date of commencement of their terms of office to be published by notice in the *Gazette*.
- (7) A non-executive member of the Board—
 - (a) is appointed according to the terms and conditions determined by the Minister;
 - (b) must be paid from the revenue of the Company such remuneration and allowances as the Minister determines, taking into consideration any prescriptions or guidelines issued by the Minister for the Public Service and Administration and the National Treasury; and
 - (c) is appointed on a part-time basis.
- (8) (a) Any vacancy occurring in the Board must be filled in the same way as which the departing member was appointed.
[paragraph (a) substituted by section 7(e) of [Act 10 of 2023](#)]
 - (b) Any member appointed under this subsection holds office for the rest of the period of the predecessor's term of office, unless the Minister directs that such member holds office for a longer period which may not exceed one subsequent term of up to five years.

15. Resignation, removal from office and vacating of office

- (1) A member of the Board may resign by giving to the Minister—
 - (a) one month's written notice; or
 - (b) less than one month's written notice, with the approval of the Minister.
- (2) The Minister may, after having afforded the member of the Board concerned a reasonable opportunity to be heard, remove the member from office if that member—
 - (a) acted in conflict with this Act;
 - (b) refuses or fails to make a declaration contemplated in section 13(3)(b) or refuses or fails to make disclosure as contemplated in section 16(2);
 - (c) after having been appointed, acquires any direct or indirect interest contemplated in section 13(3)(b)(ii), read with section 13(1)(g);
 - (d) neglected to properly perform the functions of his or her office; or
[paragraph (d) amended by section 8(a) of [Act 44 of 2013](#)]
 - (e) *[paragraph (e) deleted by section 8(b) of [Act 44 of 2013](#)]*
 - (f) is absent from three consecutive Board meetings without prior leave of the Chairperson.
- (3) A member of the Board must vacate the office if he or she becomes disqualified from membership of the Board in terms of section 13.

15A. Functions of bank controlling company

- (1) The bank controlling company will be the controlling company for the Company.

- (2) The bank controlling company shall itself not conduct any operating activities of its own, other than ownership of the Company.
- (3) The bank controlling company will hold 100% shares of the Company.
- (4) The bank controlling company shall exercise additional oversight over the bank, ensuring that the bank operating company exercises sound risk management and governance practices, in accordance with the South African Reserve Bank requirements as provided for in the Banks Act.

[section 15A inserted by section 8 of [Act 10 of 2023](#)]

16. Disclosure and fiduciary duties of Board members

- (1) In addition to any other applicable legislation, the following shall apply to members of the Board:
 - (a) A member of the Board may not be present, or take part in, the discussion of or the taking of a decision on any matter before the Board in which that member or his or her family member, business partner or associate has a direct or indirect interest.
 - (b) A member of the Board or his or her family member, business partner or associate, or an organisation or enterprise in which a member of the Board or his or her family member, business partner or associate has a direct or indirect interest, may not—
 - (i) offer goods or services to the Company or conclude any business with the Company; or
 - (ii) make improper use, in any manner whatsoever, of the position of a Board member or of any information acquired by a Board member by virtue of his or her position as a Board member.
 - (c) a member of the Board must perform his or her functions at all times with the utmost good faith, honesty and integrity, care and diligence and, in furtherance of his or her functions, without limiting their scope, must—
 - (i) take reasonable steps to inform himself or herself about the Company, its business and activities and the circumstances in which it operates;
 - (ii) take reasonable steps, through the processes of the Board, to obtain sufficient information and advice about all matters to be decided by the Board to enable him or her to make conscientious and informed decisions;
 - (iii) regularly attend Board meetings;
 - (iv) exercise an active and independent discretion with respect to all matters to be decided by the Board;
 - (v) exercise due diligence in the performance of his or her functions as a member;
 - (vi) comply with any internal code of conduct that the Company may establish for Board members;
 - (vii) not engage in any activity that may undermine the integrity of the Company;
 - (viii) not make improper use of his or her position as a member or of information acquired by virtue of his or her position as a member;
 - (ix) treat any confidential matters relating to the Company, obtained in his or her capacity as a Board member, as strictly confidential and not divulge them to anyone without the authority of the Company or as required as part of that person's official functions as a member of the Board.
- (2) A member of the Board must make full and immediate disclosure to the Board of any direct or indirect interest contemplated in subsection (1).

17. Procedures at meetings, and committees of Board

- (1)
 - (a) The Board determines its procedures at meetings.
 - (b) Seventy percent of serving members constitutes a quorum at any meeting of the Board.
 - (c) A decision taken by the Board or an act performed under that decision is not invalid merely by reason of—
 - (i) any irregularity in the appointment of a member;
 - (ii) a vacancy in the Board; or
 - (iii) the fact that any person not entitled to sit as a member sat as such at the time when the decision was taken,provided such decision was taken by a majority of the members present at the time and entitled so to sit, and those members at the time constituted a quorum.
- (2) The Board may establish one or more committees to assist it in the performance of its functions.
- (3) The Board must—
 - (a) assign members of the Board to serve on a committee, based on their knowledge and skills; and
 - (b) determine the—
 - (i) terms of reference of a committee;
 - (ii) composition of a committee;
 - (iii) tenure of members on a committee;
 - (iv) reporting mechanisms of a committee; and
 - (v) method and reasons for removal of a member from a committee.
- (4) The Board may appoint any person with particular knowledge, expertise or qualifications to assist a committee in the performance of its functions.
- (5) Unless specially delegated by the Board, a committee has no decision-making powers and can only make recommendations to the Board.
- (6) A committee must meet as often as is necessary in order to carry out its functions and may determine its own procedures.
- (7) Each committee must be chaired by a non-executive member of the Board.

18. Appointment of chief executive officer and chief financial officer

[heading substituted by section 9(a) of [Act 10 of 2023](#)]

- (1)
 - (a) The Board must, with the approval of the Minister, appoint a chief executive officer who shall have the overall responsibility for implementation of the Board's strategy for the Company and management of the day-to-day affairs of the Company and any other functions as delegated by the Board from time to time.
 - (b) The Board, with the concurrence of the Minister, shall appoint the chief financial officer who shall assist the chief executive officer and the Board with discharging their responsibilities over the financial affairs of the Company and any other functions as may be delegated from time to time.

- (c) The chief executive officer and the chief financial officer shall be appointed for a term not exceeding five years, which appointment may, with the approval of the Minister, be renewed for another term based on performance.

[subsection (1) substituted by section 9(b) of [Act 10 of 2023](#)]

- (2) The Board must invite applications for the posts of chief executive officer and chief financial officer by publishing advertisements in the media or the selection process approved by the Board with the concurrence of the Minister, and this may include as a head hunting process in accordance with the relevant prescripts.

[subsection (2) substituted by section 9(c) of [Act 10 of 2023](#)]

- (3) A person appointed as chief executive officer or chief financial officer—
 - (a) must have the qualifications or experience relevant to the functions of the Company and must be fit and proper to hold the office of a chief executive officer of a banking institution as contemplated in the Banks Act;
 - (b) must not be disqualified as contemplated in section 13; and
 - (c) is a member of the Board by virtue of the office.

[subsection (3) amended by section 9(d) of [Act 10 of 2023](#)]

19. Conditions of appointment of chief executive officer and chief financial officer

[heading substituted by section 10(a) of [Act 10 of 2023](#)]

- (1) (a) The appointment of the chief executive officer and chief financial officer is subject to the conclusion of a performance contract entered into between the Board and the chief executive officer and the Board and the chief financial officer, respectively.

[paragraph (a) substituted by section 10(b) of [Act 10 of 2023](#)]

- (b) The performance contract must be reviewed annually.
- (2) The chief executive officer and chief financial officer hold office on the terms and conditions determined by the Board, with the concurrence of the Minister.

[subsection (2) substituted by section 10(c) of [Act 10 of 2023](#)]

- (3) The chief executive officer and chief financial officer are entitled to a remuneration package determined by the Board, with the concurrence of the Minister and the Minister of Finance, and the concurrence shall be deemed to have been granted, should such a response not be forthcoming within 30 days from the receipt of the request by the Minister of Finance.

[subsection (3) substituted by section 10(d) of [Act 10 of 2023](#)]

- (4) The chief executive officer and chief financial officer are accountable to the Board.

[subsection (4) substituted by section 10(e) of [Act 10 of 2023](#)]

- (5) The Board may in writing appoint any senior employee of the Company to act as chief executive officer or chief financial officer when the holder of that office—
 - (a) is temporarily unable to perform the duties connected with that office;
 - (b) has been suspended from office; or

- (c) has vacated or has been removed from that office and a new chief executive officer or chief financial officer, as the case may be, has not yet been appointed.

[subsection (5) added by section 10(f) of [Act 10 of 2023](#)]

- (6) In the case of a vacancy contemplated in subsection (5), the Board must fill the vacancy within a reasonable period of time, which may not exceed 120 days.

[subsection (6) added by section 10(f) of [Act 10 of 2023](#)]

- (7) An acting chief executive officer or acting chief financial officer may exercise all the powers and must perform all the duties of the chief executive officer or chief financial officer for a period not exceeding 120 days or as determined by the Board with the concurrence of the Minister.

[subsection (7) added by section 10(f) of [Act 10 of 2023](#)]

- (8) Executives of Postbank are required to undergo a fit and proper assessment exercise to determine whether they have the requisite skills, knowledge and expertise to occupy those positions critical for the bank in terms of section [13\(2\)\(fA\)](#) and [\(g\)](#) of the Banks Act.

[subsection (8) added by section 10(f) of [Act 10 of 2023](#)]

20. Personnel of Company

- (1) The work relating to the functions of the Company is performed by—
 - (a) persons transferred to the Company as provided for in section [7\(c\)](#); and
 - (b) such persons as the chief executive officer may, with the concurrence of the Board, appoint.

[paragraph (b) substituted by section 11(a) of [Act 10 of 2023](#)]

- (2) The Board must determine the structure or organogram of the Company and the conditions of service, remuneration and service benefits of the personnel of the Company after consultation with the chief executive officer and with the concurrence of the Minister and the Minister of Finance.

[subsection (2) substituted by section 11(b) of [Act 10 of 2023](#)]

20A. Bank controlling company's organisational structure

- (1) The operations of the bank controlling company will consist primarily of compliance, risk management and governance functions.
- (2) The Board shall remain ultimately responsible for ensuring that its approved strategy is implemented and that the group's purpose is fulfilled.
- (3) The Board also accepts its responsibility to ensure that risks are adequately identified, measured, managed and monitored and that good governance is maintained.
- (4)
 - (a) The Board will be supported by the Company Secretary who shall provide governance support as well.
 - (b) The secretariat resource shall be shared with the Company.
- (5) The Board shall discharge its duties through policies and frameworks supported by Board committees established in terms of the Companies Act, the Banks Act and the Public Finance Management Act.

[section 20A inserted by section 12 of [Act 10 of 2023](#)]

Chapter V

Funds and financial accounts of company

21. Annual report

- (1) The Company must annually, not later than five months after the end of its financial year, submit to the Minister a report on all its activities during the previous year.
- (2) The annual report must be tabled in Parliament within 30 days after it was received by the Minister, if Parliament is then in session, or, if Parliament is not then in session, within 30 days after the commencement of its next ensuing session.

22. Funds of Company and bank controlling company

[heading substituted by section 13(a) of [Act 10 of 2023](#)]

The funds of the Company and bank controlling company consist of—

- (a) capital vested in the Company and bank controlling company by virtue of section 7;
[paragraph (a) substituted by section 13(c) of [Act 10 of 2023](#)]
- (b) funds derived from its operating activities;
- (c) money appropriated by Parliament; and
- (d) moneys lawfully received from any other source.

[section 22 amended by section 13(b) of [Act 10 of 2023](#)]

23. Inspection of financial accounts and documents of Company and bank controlling company

The Minister or any officer in the public service authorised by the Minister in writing has full access to all the financial accounts and documents of the Company and of the bank controlling company, and the Board must at all times furnish to the Minister or to such officer, as the case may be, all such information as may reasonably be required.

[section 23 substituted by section 14 of [Act 10 of 2023](#)]

24. Application of Public Finance Management Act

The Company and the bank controlling company are subject to the Public Finance Management Act.

[section 24 substituted by section 15 of [Act 10 of 2023](#)]

Chapter VI

General and miscellaneous

25. Intervention by Minister

- (1) The Minister may, until such time as the Company is registered as a banking institution in terms of the Banks Act, direct the Company to take any action specified by the Minister if the Company—
 - (a) is being mismanaged;
 - (b) fails to perform its functions effectively or efficiently;

- (c) has acted unfairly or in a discriminatory or inequitable way towards a person to whom it owes a duty under this Act; or
- (d) has failed to comply with any law or any policy envisaged in this Act.

[subsection (1) substituted by section 10(a) of [Act 44 of 2013](#)]

- (2) A directive contemplated in subsection (1) must state—

- (a) the nature of the deficiency;
- (b) the steps which must be taken to remedy the situation; and
- (c) a reasonable period within which the steps contemplated in paragraph (b) must be taken.

- (3) If the Company fails to remedy the situation within the stated period, the Minister may—

- (a) after having afforded the Company a reasonable opportunity to be heard; and
- (b) after having afforded the Company a hearing on any submissions received,

replace the members of the Board in the same manner as the departing members have been appointed or, where circumstances so require, appoint a person as an administrator to take over the relevant function of the Company.

[subsection (3) substituted by section 10(b) of [Act 44 of 2013](#)]

- (4) If the Minister appoints an administrator in terms of subsection (3)—

- (a) the administrator may do anything which the Board might otherwise be empowered or required to do by or under this Act, to the exclusion of the Board;
- (b) the Board may not, while the administrator is responsible for the relevant function, exercise any of its powers or perform any of its duties relating to that function;
- (c) an employee or a contractor of the Company must comply with a directive given by the administrator.

- (5) The Minister must—

- (a) review the performance of the Company regularly whilst it is under administration; and
- (b) within six months of appointing the administrator, table a report on his or her findings in the National Assembly.

- (6) Once the Minister is satisfied that the Company is able to perform its functions effectively, the Minister must terminate the appointment of the administrator.

- (7) (a) Notwithstanding this section, the Minister may dissolve the Board if the Minister, on good cause shown, loses confidence in the ability of the Board to perform its functions effectively and efficiently.

- (b) The Minister may exercise the power only—

- (i) after having afforded the Board a reasonable opportunity to be heard; and
- (ii) after having afforded the Board a hearing on any submissions received.

- (c) If the Minister dissolves the Board, the Minister—

- (i) may appoint an administrator to take over the functions of the Board and to do anything which the Board might otherwise be empowered or required to do by or under this Act, subject to such conditions as the Minister may determine; and
- (ii) must, as soon as it is feasible but not later than six months after the dissolution of the Board, replace the members of the Board in the same way as they were appointed.

- (8) (a) The costs associated with the appointment of an administrator shall be for the account of the Company.
- (b) The appointment of the administrator terminates when the Board members have been replaced in terms of subsection (7)(c)(ii).
- (9) Notwithstanding this section, the Minister retains the right at any time to approach a competent court for relief in any matter he or she considers appropriate in furtherance of this Act.

26. Regulations and policy

- (1) The Minister may, after consultation with the Minister of Finance, make regulations regarding—
 - (a) any matter relating to the functioning of the Board that it is necessary to ensure the efficiency and effectiveness in the performance of its functions; and
 - (b) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.
- (2) *[subsection (2) deleted by section 11 of [Act 44 of 2013](#)]*
- (3) *[subsection (3) deleted by section 11 of [Act 44 of 2013](#)]*

26A. Application of Banks Act

In the event of any conflict between the provisions of the Banks Act and this Act, the provisions of the Banks Act prevail.

[section 26A inserted by section 12 of [Act 44 of 2013](#)]

27. Non-application of provision of Companies Act

A provision of the Companies Act does not apply to the Company if—

- (a) because of any special or contrary arrangement made by this Act, such a provision is clearly inappropriate or inapplicable; or
- (b) the Minister of Trade and Industry has issued a declaration under section 28.

28. Exemption from certain provisions of Companies Act

[heading substituted by section 16(a) of [Act 10 of 2023](#)]

- (1) (a) The Minister, with the concurrence of the Minister of Finance, may, in terms of section 9 of the Companies Act, request the Minister of Trade, Industry and Competition to grant a total, partial or conditional exemption from one or more provisions of the Companies Act applicable to the Company or the bank controlling company.
- (b) The request must be fully motivated by the Company or the bank controlling company, as the case may be.

[subsection (1) substituted by section 16(b) of [Act 10 of 2023](#)]

- (2) (a) The Commissioner must publish particulars about the request and the motivation contemplated in subsection (1) by notice in the *Gazette*.
- (b) In the notice contemplated in paragraph (a), the Commissioner must invite interested persons to submit representations to a person named in the notice within a period stipulated in that notice.

[subsection (2) substituted by section 16(c) of [Act 10 of 2023](#)]

- (3) (a) After having considered the representations contemplated in subsection (2), if any, the Minister of Trade and Industry may, by notice in the *Gazette*, declare the whole or any part of the provision concerned to be inapplicable to the Company with effect from the date stipulated in that notice.
- (b) Before granting an exemption in terms of section 9 of the Companies Act and in addition to the provisions of that section, the Minister of Trade, Industry and Competition must consider the representations contemplated in subsection (2) and be satisfied on reasonable grounds that the request for exemption for the Company or the bank controlling company—
 - (i) will contribute to the Company's or the bank controlling company's efficiency;
 - (ii) will not reduce or limit the Company's or the bank controlling company's accountability as a public entity or reduce the transparency of its functioning and operations;
 - (iii) will not be prejudicial to the rights, interests or claims of the Company's creditors or employees or to the rights or interests of any other person;
 - (iv) will not reduce or limit the Company's or bank controlling company's functioning or accountability as a bank or bank controlling company; and
 - (v) will not affect the effective regulation and supervision of the Company and the bank controlling company in terms of the Banks Act.

[paragraph (b) substituted by section 16(d) of Act 10 of 2023]
- (4) This section applies with the changes required by the context to the former Postbank functioning as contemplated in section 30.

29. Offences

- (1) Any member who fails to comply with section 13(3)(b)(i) or (ii) or 16(2), or who contravenes section 16(1)(c)(vii) or (viii), or any former member who failed to comply with or contravened any of those sections while being a member, commits an offence and is liable on conviction to a fine or to imprisonment not exceeding five years or to both a fine and such imprisonment.
- (2) Any person referred to in section 16(1)(b) who contravenes that section, or any former member who contravened that section while being a member, or any person, other than a member of the Board, referred to in section 16(1)(b) who contravened that section during the tenure of a former member, commits an offence and is liable on conviction to a fine or to imprisonment not exceeding five years or to both a fine and such imprisonment.

30. Transitional provisions

- (1) Notwithstanding the repeal of sections 51(1), (3) and (4), 52, 53, 55 and 58 of the Postal Services Act by section 31, until the former Postbank is transferred as contemplated in section 7, the former Postbank continues to function without any interruption, as if those sections have not been repealed.
- (2) Any exemption under the Banks Act applicable to the former Postbank immediately prior to the transfer date, continues to apply to the Company until such time as the Company is registered as a banking institution in terms of the Banks Act.

[section 30 substituted by section 13 of Act 44 of 2013]

31. Repeal of laws

The laws mentioned in Schedule 1 are hereby repealed to the extent set out in the third column of that Schedule.

32. Short title and commencement

This Act is called the South African Postbank SOC Limited Act, 2010, and takes effect on a date determined by the President in the *Gazette*.

[section 32 substituted by section 19 of [Act 10 of 2023](#)]

Schedule 1 (Section 31)**Repeal of laws**

No. and year of law	Short title	Extent of repeal
Act No. 124 of 1998	Postal Services Act, 1998	Sections 51(1), (3) and (4), 52, 53, 55 and 58