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DEPARTMENT OF FINANCE.

DEPARTEMENT VAN FINANSIES.

The following Bill is published for general information.

Onderstaande Wetsontwerp word vir algemene inligting gepubliseer.

BILL

To amend the Banking Act, 1942.

(To be introduced by the MINISTER OF FINANCE.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of section 1 of Act 38 of 1942, as amended by section 1 of Act 34 of 1944 and section 22 of Act 33 of 1949.

1. Section *one* of the Banking Act, 1942 (hereinafter referred to as the principal Act) is hereby amended— 5

(a) by the insertion in paragraph (a) of the definition of "liquid assets" in sub-section (1) after the words "local authorities" of the words "in the Union", and the substitution for paragraph (b) of the said definition of the following paragraph: 10

"(b) bills of exchange or promissory notes which are eligible for discount by the Reserve Bank; and";

(b) by the substitution in the definition of "loan bank" in sub-section (1) for the words "small loans" of the words "loans whereof a substantial proportion consists of loans secured by surety bonds"; and 15

(c) by the insertion after sub-section (1) of the following sub-section:

"(1)*bis*. A person shall be deemed to be carrying on the business of accepting deposits of money for the purposes of this Act notwithstanding that such deposits are limited to fixed amounts or that certificates or other instruments are issued in respect of any such amounts providing for the repayment to the holder thereof either conditionally or unconditionally of the amounts of the deposits at specified or unspecified dates or for the payment of interest on the amounts deposited at specified intervals or otherwise, or that such certificates are transferable: Provided that the acceptance of moneys against debentures issued in accordance with the Companies Act, 1926 (Act No. 46 of 1926), or any other law shall not be deemed to be the business of accepting deposits of money for the purposes of this Act." 25 30

Amendment of section 4 of Act 38 of 1942, as amended by section 3 of Act 34 of 1944.

2. Section *four* of the principal Act is hereby amended 35 by the addition of the following paragraph to the proviso to sub-section (6):

"(iii) no banking institution any of whose shares are issued in the form of bearer shares shall be registered."

Amendment of section 6 of Act 38 of 1942.

3. Section *six* of the principal Act is hereby amended— 40

(a) by the insertion in sub-section (2) after the word "sub-sections" of the figure "(2)", and the deletion in paragraph (c) of that sub-section of the words "as a commercial bank"; and

(b) by the addition of the following proviso to sub-section (4): 45

"Provided that the reference in the said section as so applied, to the date of commencement of this Act, shall be deemed to be a reference to the date on which the banking institution concerned was first registered provisionally." 50

Amendment of section 13 of Act 38 of 1942, as amended by section 4 of Act 25 of 1947.

4. Sub-section (1) of section *thirteen* of the principal Act is hereby amended—

(a) by the substitution in the Afrikaans text of paragraph (a) for the word "hoofboekhouer" of the word "hoof- 55 rekenmeester";

(b) by the substitution for paragraph (d) of the following paragraph:

"(d) simultaneously with the sending or submission of any periodical statement of its affairs or any notice, report or other document to its share- 60

WETSONTWERP

Tot wysiging van die Bankwet, 1942.

(Ingedien te word deur die MINISTER VAN FINANSIES.)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, soos volg:—

1. Artikel *een* van die Bankwet, 1942 (hieronder die Hoofwet
5 genoem), word hiermee gewysig—
 - (a) deur in sub-artikel (1) in paragraaf (a) van die begrips-
bepaling van „liquide bate” na die woorde „plaaslike
besture” die woorde „in die Unie” in te voeg, en
10 paragraaf (b) van bedoelde begripsbepaling deur die
volgende paragraaf te vervang:
„(b) wissels of promesses wat deur die Reserwebank
verdiskonteer kan word; en”;
 - (b) deur in sub-artikel (1) in die begripsbepaling van
15 „leningsbank” die woorde „klein lenings” deur die
woorde „lenings waarvan ’n belangrike deel uit lenings
wat deur borgaktes gedek word, bestaan,” te vervang;
en
 - (c) deur die volgende sub-artikel na sub-artikel (1) in te
20 voeg:
„(1) *bis.* ’n Persoon word geag die aanneem van
deposito’s as bedryf uit te oefen vir die doeleindes van
hierdie Wet, ten spyte daarvan dat sodanige deposito’s
25 tot vasgestelde bedrae beperk word of dat sertifikate
of ander stukke ten opsigte van enige sodanige bedrae
uitgereik word wat voorsiening maak vir die terug-
betaling aan die houer daarvan, of voorwaardelik of
onvoorwaardelik, van die bedrae van die deposito’s
30 op bepaalde of onbepaalde datums of vir die betaling
van rente op die gedeponeerde bedrae met bepaalde
tussenpose of andersins of dat daardie sertifikate
oordraagbaar is: Met dien verstande dat die aanname
van geld teen obligasies ooreenkomstig die Maat-
skappyywet, 1926 (Wet No. 46 van 1926) of ’n ander
35 wet uitgereik, nie vir die doeleindes van hierdie Wet
die aanneem van deposito’s as bedryf geag word
nie.”
2. Artikel *vier* van die Hoofwet word hiermee gewysig deur
die volgende paragraaf by die voorbehoudsbepaling by sub-
artikel (6) te voeg:
40 „(iii) geen bankinstelling waarvan enige aandele in die vorm
van toonderaandele uitgereik word, geregistreer word
nie.”
3. Artikel *ses* van die Hoofwet word hiermee gewysig—
 - (a) deur in sub-artikel (2) na die woord „sub-artikels” die
45 syfer „(2)” in te voeg, en in paragraaf (c) van bedoelde
sub-artikel die woorde „as ’n handelsbank” te skrap;
en
 - (b) deur die volgende voorbehoudsbepaling by sub-artikel
(4) te voeg:
50 „Met dien verstande dat die verwysing na die datum
van inwerkingtreding van hierdie Wet in bedoelde
artikel soos aldus toegepas, geag word ’n verwysing
te wees na die datum waarop die betrokke bankin-
stelling vir die eerste keer voorlopig geregistreer was.”
4. Sub-artikel (1) van artikel *dertien* van die Hoofwet word
55 hiermee gewysig—
 - (a) deur in paragraaf (a) die woord „hoofboekhouer” deur
die woord „hoofrekenmeester” te vervang;
 - (b) deur paragraaf (d) deur die volgende paragraaf te
60 vervang:
„(d) gelyktydig met die stuur of voorlegging van enige
periodieke staat van sy sake of enige kennisgewing,
verslag of ander dokument aan sy aandeelhouders

Wysiging van
artikel 1 van
Wet 38 van
1942, soos deur
artikel 1 van
Wet 34 van
1944 en artikel
22 van Wet 33
van 1949 gewysig.

Wysiging van
artikel 4 van
Wet 38 van 1942,
soos deur artikel
3 van Wet 34 van
1944 gewysig.

Wysiging van
artikel 6 van
Wet 38 van 1942.

Wysiging van
artikel 13
van Wet 38 van
1942, soos deur
artikel 4 van Wet
25 van 1947
gewysig.

holders or members, a copy of every such statement, notice, report or other document and of any auditor's report sent or submitted with any such statement, certified in each case as a true copy by the said chief executive officer; and"; and 5

(c) by the substitution in paragraph (e) for the word "sixty" of the word "thirty".

Amendment of section 14 of Act 38 of 1942, as amended by section 5 of Act 25 of 1947 and section 18 of Act 45 of 1953.

5. Section *fourteen* of the principal Act is hereby amended by the addition of the following sub-section, the existing section becoming sub-section (1): 10

"(2) A commercial bank shall have and maintain any minimum amount prescribed by sub-section (1), at all times during the period from the date of certification under sub-section (1) of section *thirteen* of the statement or return by reference to which that amount is determined, until 15 the day preceding the date on which the next succeeding such statement or return is so certified."

Amendment of section 15 of Act 38 of 1942, as amended by section 6 of Act 25 of 1947.

6. Section *fifteen* of the principal Act is hereby amended by the substitution in sub-section (1) for paragraph (b) and all the words thereafter preceding the first proviso, of the following 20 paragraph:—

"(b) the amount of its paid up capital and unimpaired reserve funds which it is obliged to maintain in terms of paragraph (a) of sub-section (1) of section *fourteen*, as shown in the bank's last preceding quarterly statements furnished to the Registrar in terms of paragraphs (b) and (c) of sub-section (1) of section *thirteen*."

Amendment of section 17 of Act 38 of 1942, as amended by section 7 of Act 25 of 1947 and section 22 of Act 33 of 1949.

7. Section *seventeen* of the principal Act is hereby amended by the deletion in sub-section (2) of the expression "of paragraph 30 (b)".

Amendment of section 18 of Act 38 of 1942.

8. Section *eighteen* of the principal Act is hereby amended—

(a) by the substitution in sub-section (1) for the word "triplicate" of the word "duplicate", for the word "hoofboekhouer" in the Afrikaans text of sub-paragraph (i) of paragraph (a) of the said sub-section of the word "hoofrekenmeester", and for paragraph (c) of the said sub-section of the following paragraph: 35

"(c) simultaneously with the sending or submission of any periodical statement of its affairs or any 40 notice, report or other document to its shareholders or members, a copy of every such statement, notice, report or other document and of any auditor's report sent or submitted with any such statement, certified in each case as a true 45 copy by the said chief executive officer; and"; and

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

"(2) A people's bank shall display at all times in a conspicuous place in the building or office in which it 50 carries on business, a copy of the last statement referred to in sub-paragraph (i) of paragraph (a) of sub-section (1)."

Amendment of section 19 of Act 38 of 1942.

9. Section *nineteen* of the principal Act is hereby amended—

(a) by the addition of the following proviso to paragraph 55 (b):

"Provided that for the purposes of this paragraph a people's bank may deduct—

(aa) from the liabilities referred to in sub-paragraph (ii), the amount outstanding on any loan made by 60 such bank against the security of savings or fixed deposits included under that sub-paragraph, which it holds to the credit of the borrower;

(bb) from the liabilities referred to in sub-paragraph (iii), the amount outstanding on any loan made 65 by such bank against the security of savings or fixed deposits included under sub-paragraph (iii), which it holds to the credit of the borrower."

(b) by the deletion of the proviso thereto; and

- of lede, 'n afskrif van elke sodanige staat, kennisgewing, verslag of ander dokument en van enige ouditeursverslag, wat saam met so 'n staat gestuur of voorgelê word, in elke geval deur bedoelde hoofbestuurder as 'n juiste afskrif gesertifiseer; en"; en
- (c) deur in paragraaf (e) die woord „sestig” deur die woord „dertig” te vervang.
5. Artikel *veertien* van die Hoofwet word hiermee gewysig deur die volgende sub-artikel daarby te voeg, terwyl die bestaande artikel sub-artikel (1) word:
- „(2) 'n Handelsbank moet enige minimum bedrag deur sub-artikel (1) voorgeskryf, besit en in stand hou te alle tye gedurende die tydperk van die datum van sertifisering ingevolge sub-artikel (1) van artikel *dertien* van die staat of opgawe met verwysing waarna daardie bedrag bepaal word, tot die dag voor die datum waarop die eersvolgende sodanige staat of opgawe aldus gesertifiseer word.”.
6. Artikel *vyftien* van die Hoofwet word hiermee gewysig deur in sub-artikel (1) paragraaf (b) en al die woorde daarna wat die eerste voorbehoudsbepaling voorafgaan, deur die volgende paragraaf te vervang:
- „(b) die bedrag van sy gestorte kapitaal en onaangetaste reserwefondse wat hy ingevolge paragraaf (a) van sub-artikel (1) van artikel *veertien* verplig is om in stand te hou, volgens die bank se ingevolge paragrawe (b) en (c) van sub-artikel (1) van artikel *dertien* aan die Registrateur verstrekte jongste kwartaalstate.”.
7. Artikel *sewentien* van die Hoofwet word hiermee gewysig deur in sub-artikel (2) die uitdrukking „van paragraaf (b)” te skrap.
8. Artikel *agtien* van die Hoofwet word hiermee gewysig—
- (a) deur in sub-artikel (1) die woord „drievoud” deur die woord „tweevoud” in sub-paragraaf (i) van paragraaf (a) van bedoelde sub-artikel die woord „hoofboekhouer” deur die woord „hoofrekenmeester”, en paragraaf (c) van daardie sub-artikel deur die volgende paragraaf te vervang:
- „(c) gelyktydig met die stuur of voorlegging van enige periodieke staat van sy sake of enige kennisgewing, verslag of ander dokument aan sy aandeelhouders of lede, 'n afskrif van elke sodanige staat, kennisgewing, verslag of ander dokument en van enige ouditeursverslag, wat saam met so 'n staat gestuur of voorgelê word, in elke geval deur bedoelde hoofbestuurder as 'n juiste afskrif gesertifiseer; en"; en
- (b) deur sub-artikel (2) deur die volgende sub-artikel te vervang:
- „(2) 'n Volksbank moet te alle tye op 'n in die oog lopende plek in die gebou of kantoor waarin hy sy bedryf uitoefen, 'n afskrif van die jongste staat waarna in sub-paragraaf (i) van paragraaf (a) van sub-artikel (1) verwys word, vertoon.”.
9. Artikel *negentien* van die Hoofwet word hiermee gewysig—
- (a) deur die volgende voorbehoudsbepaling by paragraaf (b) te voeg:
- „Met dien verstande dat vir die doeleindes van hierdie paragraaf 'n volksbank—
- (aa) van die in sub-paragraaf (ii) bedoelde verpligtings kan aftrek, die bedrag uitstaande op 'n lening deur daardie bank verstrekte teen sekerheid van spaar- of vaste deposito's wat by daardie sub-paragraaf ingesluit word, en wat hy ten bate van die lener besit;
- (bb) van die in sub-paragraaf (iii) bedoelde verpligtings kan aftrek, die bedrag uitstaande op 'n lening deur daardie bank verstrekte teen sekerheid van spaar- of vaste deposito's wat by sub-paragraaf (iii) ingesluit word en wat hy ten bate van die lener besit.”;
- (b) deur die voorbehoudsbepaling daarby te skrap; en

Wysiging van artikel 14 van Wet 38 van 1942, soos deur artikel 5 van Wet 25 van 1947 en artikel 18 van Wet 45 van 1953 gewysig.

Wysiging van artikel 15 van Wet 38 van 1942, soos deur artikel 6 van Wet 25 van 1947 gewysig.

Wysiging van artikel 17 van Wet 38 van 1942, soos deur artikel 7 van Wet 25 van 1947 en artikel 22 van Wet 33 van 1949 gewysig.

Wysiging van artikel 18 van Wet 38 van 1942.

Wysiging van artikel 19 van Wet 38 van 1942.

- (c) by the addition of the following sub-section, the existing section becoming sub-section (1):

"(2) A people's bank shall have and maintain any minimum amount prescribed by sub-section (1), at all times during the period from the date of certification under sub-section (1) of section *eighteen* of the statement by reference to which that amount is determined, until the day preceding the date on which the next succeeding such statement is so certified."

Amendment of section 20 of Act 38 of 1942, as amended by section 8 of Act 25 of 1947.

10. Section *twenty* of the principal Act is hereby amended—

- (a) by the deletion of paragraph (a) of sub-section (1); and
(b) by the substitution for the table in paragraph (b) of sub-section (1) of the following table:

"Total liabilities to the public of a people's bank as at the close of its last financial year."		Maximum savings account credits.	Maximum amounts repayable on fixed deposits to any person in any one month.
		£	£
Not exceeding	£100,000	100	200
Not exceeding	£200,000	200	400
Not exceeding	£400,000	300	600
Not exceeding	£600,000	400	800
Not exceeding	£1,000,000	500	1,000
Not exceeding	£2,000,000	1,000	2,000
Not exceeding	£5,000,000	2,000	3,000
Exceeding	£5,000,000	3,000	4,000."

Amendment of section 21 of Act 38 of 1942.

11. Section *twenty-one* of the principal Act is hereby amended by the deletion of the words "and it shall not charge or receive any compound interest on any such loan,".

Amendment of section 22 of Act 38 of 1942, as amended by section 9 of Act 25 of 1947.

12. Section *twenty-two* of the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

- "(c) give to any person who pays any money on account of a loan, at the time when the payment is made, a written acknowledgment of such payment: Provided that a people's bank shall at the request of such person furnish him as soon as may be thereafter with a plain and complete receipt for the money so paid, wherein are specified the amount applied to the payment of interest and the amount applied to the repayment of the principal sum, and wherein is set forth the unrepaid balance of the loan; and".

Amendment of section 26 of Act 38 of 1942, as amended by section 10 of Act 25 of 1947.

13. Section *twenty-six* of the principal Act is hereby amended by the substitution for the proviso of the following proviso:

"Provided that for the purposes of such application—

- (a) section *nineteen* shall be construed as if—
(i) the words 'in the Union' had been inserted after the word 'maintain' in sub-section (1) thereof, and, after the words 'public' and 'liquid assets' respectively, in paragraph (a) of the said sub-section; and
(ii) the words 'as payable in the Union' had been inserted after the expression 'paragraph (a)' in paragraph (b) of sub-section (1) thereof;
(b) any reference in sections *twenty-one* and *twenty-two* to a loan shall be construed as a reference to a loan secured by a surety bond; and
(c) any reference in paragraph (e) of Section *twenty-two* to interest shall be construed as a reference to interest on loans secured by surety bonds."

Amendment of section 28 of Act 38 of 1942, as amended by section 12 of Act 25 of 1947.

14. Section *twenty-eight* of the principal Act is hereby amended—

- (a) by the deletion in paragraph (a) of all the words after the first proviso;
(b) by the addition of the following proviso to paragraph (b):
"Provided that for the purposes of this paragraph a deposit-receiving institution may deduct—
(aa) from the deposits referred to in sub-paragraph (ii), the amount outstanding on any loan made by such institution against the security of savings or

- (c) deur die volgende sub-artikel daarby te voeg, terwyl die bestaande artikel sub-artikel (1) word:
- „(2) 'n Volksbank moet enige minimum bedrag deur sub-artikel (1) voorgeskryf, besit en in stand hou, te alle tye gedurende die tydperk van die datum van sertifisering ingevolge sub-artikel (1) van artikel *agtien* van die staat met verwysing waarna daardie bedrag bepaal word, tot die dag voor die datum waarop die eersvolgende sodanige staat aldus gesertifiseer word.”.

- 10 10. Artikel *twintig* van die Hoofwet word hiermee gewysig—
- (a) deur paragraaf (a) van sub-artikel (1) te skrap; en
- (b) deur die tabel in paragraaf (b) van sub-artikel (1) deur die volgende tabel te vervang:

Wysiging van artikel 20 van Wet 38 van 1942, soos deur artikel 8 van Wet 25 van 1947 gewysig.

„Totale verpligtings teenoor die publiek, van 'n volksbank op die sluitingsdatum van sy jongste boekjaar.	Maksimum krediet op spaar-rekening.	Maksimum bedrae aan enige persoon in enige enkele maand op vaste deposito's terug-betalbaar.
£100,000 nie te bowe gaande nie	100	200
£200,000 nie te bowe gaande nie	200	400
£400,000 nie te bowe gaande nie	300	600
£600,000 nie te bowe gaande nie	400	800
£1,000,000 nie te bowe gaande nie	500	1,000
£2,000,000 nie te bowe gaande nie	1,000	2,000
£5,000,000 nie te bowe gaande nie	2,000	3,000
£5,000,000 te bowe gaande ..	3,000	4,000.”.

11. Artikel *een-en-twintig* van die Hoofwet word hiermee gewysig deur die woorde „en hy mag nie enige samegestelde rente op so 'n lening beding of ontvang nie,” te skrap.

Wysiging van artikel 21 van Wet 38 van 1942.

12. Artikel *twee-en-twintig* van die Hoofwet word hiermee gewysig deur paragraaf (c) deur die volgende paragraaf te vervang:

Wysiging van artikel 22 van Wet 38 van 1942, soos deur artikel 9 van Wet 25 van 1947 gewysig.

- „(c) aan enigiemand wat enige geld op 'n lening afbetaal, ten tyde van die afbetaling 'n skriftelike erkenning van daardie afbetaling oorhandig: Met dien verstande dat 'n volksbank op versoek van so iemand so spoedig doenlik daarna 'n duidelike en volledige kwitansie vir die aldus afbetaalde geld aan hom verstrek, waarin die bedrag wat ter vereffening van rente en die bedrag wat ter aflossing van die hoofsom dien, aangegee word, en waarin die nie-terugbetaalde saldo van die lening vermeld word; en”.

13. Artikel *ses-en-twintig* van die Hoofwet word hiermee gewysig deur die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang:

Wysiging van artikel 26 van Wet 38 van 1942, soos deur artikel 10 van Wet 25 van 1947 gewysig.

- „Met dien verstande dat by sodanige toepassing—
- (a) artikel *negentien* vertolk word asof—
- (i) in sub-artikel (1) daarvan die woorde „in die Unie” na die woord „moet” en, in paragraaf (a), na die woorde „publiek” en „liquide bate” onderskeidelik, ingevoeg was; en
- (ii) in paragraaf (b) van sub-artikel (1) daarvan, na die woord „kwartaalstaat” die woorde „in die Unie betaalbaar” ingevoeg was;
- (b) 'n verwysing in artikels *een-en-twintig* en *twee-en-twintig* na 'n lening as 'n verwysing na 'n lening deur 'n borgakte gedek, vertolk word; en
- (c) 'n verwysing in paragraaf (e) van artikel *twee-en-twintig* na rente as 'n verwysing na rente op lenings deur borgaktes gedek, vertolk word.”.

14. Artikel *agt-en-twintig* van die Hoofwet word hiermee gewysig—

Wysiging van artikel 28 van Wet 38 van 1942, soos deur artikel 12 van Wet 25 van 1947 gewysig.

- (a) deur in paragraaf (a) al die woorde na die eerste voorbehoudsbepaling te skrap;
- (b) deur die volgende voorbehoudsbepaling by paragraaf (b) te voeg:
- „Met dien verstande dat vir die doeleindes van hierdie paragraaf 'n deposito-nemende instelling—
- (aa) van die in sub-paragraaf (ii) bedoelde deposito's kan aftrek, die bedrag uitstaande op 'n lening deur daardie instelling verstrek teen sekerheid van

fixed deposits included under that sub-paragraph, which it holds to the credit of the borrower;
 (bb) from the deposits referred to in sub-paragraph (iii), the amount outstanding on any loan made by such institution against the security of savings or fixed deposits included under sub-paragraph (iii), which it holds to the credit of the borrower.”;

(c) by the deletion of the proviso thereto; and
 (d) by the addition of the following sub-section, the existing section becoming sub-section (1):

“(2) A deposit-receiving institution shall have and maintain any minimum amount prescribed by sub-section (1), at all times during the period from the date of certification under sub-section (1) of section *eighteen*, as qualified by section *twenty-seven*, of the statement by reference to which that amount is determined, until the day preceding the date on which the next succeeding such statement is so certified.”.

Amendment of
 section 30 of
 Act 38 of
 1942.

15. Section *thirty* of the principal Act is hereby amended by the substitution for the words “its cost to the institution in question or at” of the words “an amount not exceeding its cost to the institution in question or”.

Amendment of
 section 37 of
 Act 38 of 1942.

16. Section *thirty-seven* of the principal Act is hereby amended—

(a) by the substitution for the figure “(1)” in sub-section (1) of the figure “(2)” and for all the words in that sub-section after the words “whenever the institution” of the words “furnishes particulars to the Registrar of Companies in terms of paragraph (a) of sub-section (7) of the said section, or lodges with him a statement in terms of paragraph (b) of the said sub-section (7), it shall simultaneously furnish the Registrar with two copies of the document containing such particulars or with two copies of such statement.”;

(b) by the addition of the following paragraph to sub-section (1), the existing sub-section (1) becoming paragraph (a) thereof:

“(b) Any such banking institution to which the provisions of sub-section (3) of section *twenty-one* of the said Act apply, shall send to the Registrar such lists (in duplicate and certified as correct by the banking institution’s chief executive officer in the Union) of its directors, secretaries and managers, in such form and at such times as it would but for the provisions of that sub-section have been required to send to the Registrar of Companies in terms of that Act.”;

(c) by the addition of the following paragraph to sub-section (2), the existing sub-section (2) becoming paragraph (a) thereof:

“(b) Any such banking institution shall transmit to the Registrar in duplicate every list or advice relating to its managers and secretaries, which it would have been required to transmit to the Registrar of Co-operative Societies, if the said section *thirty-four* had applied in respect of managers and secretaries in the same manner as in respect of members who are directors.”;

(d) by the substitution for the figure “(1)” in sub-sections (3) and (4) of the figure “(2)”;

(e) by the insertion after the words “year of the institution” in sub-section (7) of the words “or as from such other date as the Registrar may in terms of paragraph (a) determine” and after the words “preceding financial year” in paragraph (a) of the said sub-section of the words “or as on such other date as the Registrar may at the request of the banking institution determine,” and by the deletion of the proviso to the said sub-section.

Amendment of
 section 38 of
 Act 38 of
 1942.

17. Section *thirty-eight* of the principal Act is hereby amended—

(a) by the substitution for sub-sections (1), (2) and (3) of the following sub-sections:

“(1) (a) The governing body of a banking institution shall within three months of the date of the regis-

spaar- of vaste deposito's wat by daardie sub-paragraaf ingesluit word en wat hy ten bate van die lener besit;

5 (bb) van die in sub-paragraaf (iii) bedoelde deposito's kan aftrek, die bedrag uitstaande op 'n lening deur daardie instelling verstrek teen sekerheid van spaar- of vaste deposito's wat by sub-paragraaf (iii) ingesluit word, en wat hy ten bate van die lener besit.”;

10 (c) deur die voorbehoudsbepaling daarby te skrap; en

(d) deur die volgende sub-artikel daarby te voeg, terwyl die bestaande artikel sub-artikel (1) word:

15 „(2) 'n Deposito-nemende instelling moet enige minimum bedrag deur sub-artikel (1) voorgeskryf, besit en in stand hou, te alle tye gedurende die tydperk van die datum van sertifisering ingevolge sub-artikel (1) van artikel *agtien*, soos deur artikel *sewe-en-twintig* gewysig, van die staat met verwysing waarna daardie bedrag bepaal word, tot die dag voor die datum waarop die eersvolgende sodanige staat aldus gesertifiseer word.”.

25 15. Artikel *dertig* van die Hoofwet word hiermee gewysig deur die woorde „wat dit die betrokke instelling gekos het of teen” deur die woorde „'n bedrag van hoogstens wat dit die betrokke instelling gekos het of” te vervang. Wysiging van artikel 30 van Wet 38 van 1942.

16. Artikel *sewe-en-dertig* van die Hoofwet word hiermee gewysig— Wysiging van artikel 37 van Wet 38 van 1942.

30 (a) deur in sub-artikel (1) die syfer „(1)” deur die syfer „(2)” en al die woorde na die woorde „wanneer hy” deur die woorde „ingevolge paragraaf (a) van sub-artikel (7) van bedoelde artikel aan die Registrateur van Maatskappye besonderhede verstrek, of ingevolge paragraaf (b) van bedoelde sub-artikel (7) 'n staat by hom indien, tegelykertyd twee afskrifte van die dokument wat daardie besonderhede bevat of twee afskrifte van daardie staat aan die Registrateur verstrek” te vervang;

40 (b) deur die volgende paragraaf by sub-artikel (1) te voeg, terwyl die bestaande sub-artikel (1) paragraaf (a) daarvan word;

45 „(b) So 'n bankinstelling waarop die bepalings van sub-artikel (3) van artikel *een-en-twintig* van bedoelde Wet van toepassing is moet sodanige lyste (in tweevoud en deur die bankinstelling se hoofbestuurder in die Unie as juis gesertifiseer) van sy direkteure, sekretarisse en bestuurders, in sodanige vorm en op sodanige tye aan die Registrateur stuur, soos hy ingevolge daardie Wet aan die Registrateur van Maatskappye sou moes stuur as dit nie vir die bepalings van daardie sub-artikel was nie.”;

50 (c) deur die volgende paragraaf by sub-artikel (2) te voeg, terwyl die bestaande sub-artikel (2) paragraaf (a) daarvan word:

55 „(b) So 'n bankinstelling moet aan die Registrateur elke met sy bestuurders en sekretarisse in verband staande lys of kennisgewing in tweevoud stuur, wat hy aan die Registrateur van Koöperatiewe Verenigings sou moes stuur, as bedoelde artikel *vier-en-dertig* ten opsigte van bestuurders en sekretarisse op dieselfde wyse van toepassing was as ten opsigte van lede wat direkteure uitmaak.”;

60 (d) deur in sub-artikels (3) en (4) die syfer „(1)” deur die syfer „(2)” te vervang; en

65 (e) deur in sub-artikel (7) na die woorde „boekjaar van die instelling” die woorde „of vanaf 'n ander datum wat die Registrateur ingevolge paragraaf (a) vasstel” en na die woorde „jongste voorafgaande boekjaar” in paragraaf (a) van bedoelde sub-artikel die woorde „of op 'n ander datum wat die Registrateur op versoek van die bankinstelling bepaal,” in te voeg, en deur die voorbehoudsbepaling by bedoelde sub-artikel te skrap.

70 17. Artikel *agt-en-dertig* van die Hoofwet word hiermee gewysig— Wysiging van artikel 38 van Wet 38 van 1942.

75 (a) deur sub-artikels (1), (2) en (3) deur die volgende sub-artikels te vervang:

„(1) (a) Die besturende liggaam van 'n bankinstelling benoem binne drie maande van die datum van die

- tration or provisional registration of that banking institution under this Act, appoint an auditor for the period until the conclusion of the first succeeding annual general meeting of that banking institution. 5
- (b) A banking institution shall at each annual general meeting appoint, for the period from the conclusion of that meeting until the conclusion of the next succeeding annual general meeting, not less than one auditor, and if the total assets of the banking institution as at the close of its last preceding financial year exceeded one million pounds, not less than two auditors who are independent of each other. 10
- (c) Whenever for any reason, other than that referred to in paragraph (e), an auditor of a banking institution vacates his office prior to the expiration of the period for which he has been appointed, the banking institution or the governing body thereof shall as soon as may be appoint an auditor for the unexpired portion of that period. 15
- (d) No director or servant of a banking institution, and no firm of which any such director or servant is a member, shall be appointed as an auditor of that banking institution. 20
- (e) A banking institution may at a general meeting, of which notice in the same manner as to members of the banking institution has been given to any auditor appointed under this sub-section, remove from office such auditor and shall, if any auditor is so removed, appoint in his place, for the unexpired portion of the period for which the auditor so removed has been appointed, an auditor nominated by a member of the banking institution, of whose nomination notice has been given to the members of that banking institution at least fourteen days before the date of that general meeting. 25
- (f) Any banking institution shall, within thirty days of the date of appointment of any auditor under this sub-section, apply to the Registrar in the form prescribed by regulation, for his approval of the appointment. 30
- (g) The Registrar may, without assigning any reason therefor, refuse to approve of such appointment and thereupon the auditor concerned shall vacate his office. 35
- (2) If any banking institution or the governing body thereof fails to appoint any auditor required to be appointed in terms of sub-section (1), the Registrar shall appoint at the remuneration fixed by the Minister, any such auditor, who shall then be deemed to have been appointed by that banking institution or governing body, as the case may be. 40
- (3) If the banking institution concerned fails to pay the remuneration of any auditor appointed under sub-section (2), the Minister shall pay such remuneration out of public funds and the Registrar shall recover from that banking institution an amount equal to that remuneration."; and 45
- (b) by the deletion of sub-section (8). 50

Amendment of
section 40 of
Act 38 of
1942.

18. Section forty of the principal Act is hereby amended by the substitution for sub-sections (1) and (2) of the following sub-sections:

- "(1) The provisions of sub-sections (1) and (2) of section ninety bis, sub-sections (1), (2) and (4) of section ninety ter and sub-sections (1) and (2) of section ninety-nine of the Companies Act, 1926 (Act No. 46 of 1926), shall, in so far as they are applicable, apply *mutatis mutandis* to every director, manager, secretary or other officer, or auditor of a banking institution. 65
- (2) In the application of the said section ninety-nine sub-section (1) thereof shall be construed as if the following paragraphs had been inserted after paragraph (f):
- (g) Whether the securities and all records of the company are being properly and safely preserved; 70
- (h) Whether the control of the company over its branches and agencies is adequate and whether its instructions to its employees in its branches and agencies have been properly carried out." 75

registrasie of voorlopige registrasie van daardie bankinstelling ingevolge hierdie Wet, 'n ouditeur vir die tydperk tot die einde van die eersvolgende jaarlikse algemene vergadering van daardie bankinstelling.

(b) 'n Bankinstelling benoem by elke jaarlikse algemene vergadering, vir die tydperk van die einde van daardie vergadering tot die einde van die volgende jaarlikse algemene vergadering, minstens een ouditeur, en as die totale bates van die bankinstelling aan die einde van sy jongste voorafgaande boekjaar eenmiljoen pond oorskry het, minstens twee ouditeure wat onafhanklik van mekaar is.

(c) wanneer om een of ander rede, behalwe dié in sub-paragraaf (e) bedoel, 'n ouditeur van 'n bankinstelling sy amp ontruim voor die verstryking van die tydperk waarvoor hy benoem is, benoem die bankinstelling of die besturende liggaam daarvan so spoedig doenlik 'n ouditeur vir die onverstreke gedeelte van daardie tydperk.

(d) Geen direkteur of werknemer van 'n bankinstelling, en geen firma waarvan enige sodanige direkteur of werknemer 'n lid is, word tot ouditeur van daardie bankinstelling benoem nie.

(e) 'n Bankinstelling kan by 'n algemene vergadering waarvan aan 'n ouditeur ingevolge hierdie sub-artikel aangestel, op dieselfde wyse as aan lede van die bankinstelling kennis gegee is, so 'n ouditeur uit sy amp verwyder en moet, as enige sodanige ouditeur aldus verwyder word, in sy plek, vir die onverstreke gedeelte van die tydperk waarvoor die aldus verwyderde ouditeur aangestel is, 'n deur 'n lid van die bankinstelling genomineerde ouditeur benoem, van wie se nominasie aan die lede van daardie bankinstelling minstens veertien dae voor die datum van daardie algemene vergadering kennis gegee is.

(f) 'n Bankinstelling doen binne dertig dae van die datum van aanstelling ingevolge hierdie sub-artikel van enige ouditeur, by die Registrateur, in die by regulasie voorgeskrewe vorm, aansoek om sy goedkeuring van die aanstelling.

(g) Die Registrateur kan, sonder om enige rede daarvoor aan te gee, weier om so 'n aanstelling goed te keur en daarop ontruim die betrokke ouditeur sy amp.

(2) As 'n bankinstelling of die besturende liggaam daarvan in gebreke bly om enige ouditeur wat ingevolge sub-artikel (1) benoem moet word, te benoem, benoem die Registrateur, teen die besoldiging deur die Minister vasgestel, so 'n ouditeur, wat dan geag word deur daardie bankinstelling of besturende liggaam, na gelang van die geval, benoem te gewees het.

(3) As die betrokke bankinstelling in gebreke bly om die besoldiging van enige ingevolge sub-artikel (2) benoemde ouditeur te betaal, betaal die Minister daardie besoldiging uit staatsgeld en die Registrateur verhaal op daardie bankinstelling 'n bedrag gelykstaande aan daardie besoldiging;"; en

(b) deur sub-artikel (8) te skrap.

18. Artikel veertig van die Hoofwet word hiermee gewysig deur sub-artikels (1) en (2) deur die volgende sub-artikels te vervang:

Wysiging van artikel 40 van Wet 38 van 1942.

„(1) Die bepalings van sub-artikels (1) en (2) van artikel negentig bis, sub-artikels (1), (2) en (4) van artikel negentig ter en sub-artikels (1) en (2) van artikel nege-en-negentig van die Maatskappywet, 1926 (Wet No. 46 van 1926), is vir sover hulle toegepas kan word, *mutatis mutandis* op elke direkteur, bestuurder, sekretaris of ander amptenaar, of ouditeur van 'n bankinstelling van toepassing.

(2) By die toepassing van bedoelde artikel nege-en-negentig word sub-artikel (1) daarvan vertolk asof die volgende paragrawe na paragraaf (f) ingevoeg was:

„(g) Of die sekuriteite en al die stukke van die maatskappy behoorlik en veilig bewaar word;

(h) Of die beheer van die maatskappy oor sy takke en agentskappe voldoende is en of sy instruksies aan sy amptenare in sy takke en agentskappe behoorlik uitgevoer is.”

Provided that paragraphs (c) and (h) of the said sub-section as so construed shall not be construed so as to require an auditor of a banking institution to carry out an audit in respect of every branch and agency of such banking institution unless circumstances demand such action." 5

Amendment of section 44 of Act 38 of 1942.

19. Section *forty-four* of the principal Act is hereby amended by the substitution of the following sub-section for sub-section (3):

"(3) When the provisions of section *one hundred and ninety-five* of the last-mentioned Act are applied in connection with any banking institution—

(a) sub-section (4) thereof shall be construed as if the words 'Registrar of Banks and the' had been inserted after the words 'with the', and the words 'Registrar of Banks or the' had been inserted after the words 'and the'; and

(b) sub-section (5) thereof shall be construed as if the words 'Registrar of Banks and the' had been inserted after the words 'to the', and the word 'them' had been substituted for the word 'him'." 20

Amendment of section 48 of Act 38 of 1942.

20. Section *forty-eight* of the principal Act is hereby amended by the insertion after the word "person" of the words "approved of by the Registrar,".

Amendment of section 51 of Act 38 of 1942.

21. Section *fifty-one* of the principal Act is hereby amended—

(a) by the deletion in sub-section (1) of the word "*thirty-six*"; and

(b) by the insertion of the following sub-section after sub-section (2):

"(2)*bis*. The Registrar shall furnish any applicant therefor, on payment of a fee of two shillings and sixpence, with a certified copy of any certificate of registration or provisional registration issued by him."

Amendment of section 52 of Act 38 of 1942.

22. Section *fifty-two* of the principal Act is hereby amended—

(a) by the deletion in sub-section (3) of the words "elected or"; 35

(b) by the substitution for the word "Minister" wherever it occurs in sub-section (5) of the word "Registrar"; and

(c) by the addition of the following sub-section after sub-section (7):

"(8) Any person who fails to submit, transmit or furnish to the Registrar within any period fixed by or under this Act, any statement, report, return or other document, or information required by or under this Act to be so submitted, transmitted or furnished, shall, irrespective of any criminal action that may have been taken or may be taken against such person under the provisions of this Act, be liable to pay a penalty of ten pounds for every day after the expiration of any such period that he continues so to fail, and the Registrar may by civil action in any competent court of law recover from such person such penalty, or such portion thereof as he in his discretion considers the circumstances justify him in claiming." 40 45 50

Short title.

23. This Act shall be called the Banking Amendment Act, 1954. 55

- Met dien verstande dat paragrawe (c) en (h) van bedoelde sub-artikel soos aldus vertolk, nie so vertolk word dat 'n ouditeur van 'n bankinstelling ten opsigte van elke tak of agentskap van daardie bankinstelling 'n oudit moet uitvoer nie, tensy omstandighede sodanige optrede vereis."

19. Artikel *vier-en-veertig* van die Hoofwet word hiermee gewysig deur sub-artikel (3) deur die volgende sub-artikel te vervang: Wysiging van artikel 44 van Wet 38 van 1942.

- 10 „(3) By die toepassing van die bepalings van artikel *honderd vyf-en-negentig* van laasgenoemde Wet ten opsigte van 'n bankinstelling—

- (a) moet sub-artikel (4) daarvan vertolk word asof na die woorde „genoem word by die' die woorde „Registrateur van Banke en die' en na die woorde „en die' die woorde „Registrateur van Banke of die' ingevoeg was; en
15 (b) moet sub-artikel (5) daarvan vertolk word asof na die woorde „na die' die woorde „Registrateur van Banke en die' ingevoeg was en die woord „hom' deur die woord „hulle' vervang was."

20 20. Artikel *agt-en-veertig* van die Hoofwet word hiermee gewysig deur na die woord „persoon" die woorde „deur die Registrateur goedgekeur" in te voeg. Wysiging van artikel 48 van Wet 38 van 1942.

21. Artikel *een-en-vyftig* van die Hoofwet word hiermee gewysig— Wysiging van artikel 51 van Wet 38 van 1942.

- 25 (a) deur in sub-artikel (1) die woord „*ses-en-dertig*" te skrap; en

- (b) deur die volgende sub-artikel na sub-artikel (2) in te voeg:

- 30 „(2)*bis*. Die Registrateur moet aan enigeen op sy versoek, teen betaling van 'n bedrag van twee sjielings en ses pennies, 'n gesertifiseerde afskrif van enige registrasiesertifikaat of voorlopige registrasiesertifikaat deur hom uitgereik, verstrek."

22. Artikel *twee-en-vyftig* van die Hoofwet word hiermee gewysig— Wysiging van artikel 52 van Wet 38 van 1942.

- 35 (a) deur in sub-artikel (3) die woorde „gekose of" te skrap;
(b) deur in sub-artikel (5) die woord „Minister" oral waar dit voorkom, deur die woord „Registrateur" te vervang; en

- 40 (c) deur die volgende sub-artikel na sub-artikel (7) by te voeg:

- 45 „(8) Iemand wat in gebreke bly om binne enige tydperk deur of kragtens hierdie Wet vasgestel, aan die Registrateur enige staat, verslag, opgawe of ander dokument, of inligting voor te lê, te stuur of te verstrek, wat deur of kragtens hierdie Wet aldus voorgelê, gestuur of verstrek moet word, is, afgesien van enige strafregtelike stappe wat kragtens die bepalings van hierdie Wet teen so iemand gedoen is of gedoen kan word, onderhewig aan 'n boete van tien pond vir elke dag na die verstryking van so 'n tydperk wat hy aanhou om aldus in gebreke te bly, en die Registrateur kan deur siviele aksie in enige bevoegde geregshof so
50 'n boete of so 'n gedeelte daarvan wat hy na sy oordeel ag dat die omstandighede hom regverdig om te vorder, van so iemand vorder."

23. Hierdie Wet heet die Bank-wysigingswet, 1954.

Kort title.