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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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KANTOOR VAN DIE EERSTE MINISTER

No. 660.

4 April 1984

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

No. 38 van 1984: Wet op Inspeksie van Finansiële Instellings, 1984.

OFFICE OF THE PRIME MINISTER

No. 660.

4 April 1984

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

No. 38 of 1984: Inspection of Financial Institutions Act, 1984.



STAATSKOERANT

WET OP INSPEKSIE VAN FINANSIELLE INSTELLINGS, 1984

WET

Om die wette betreffende die inspeksie van die sake van finansiële instellings te konsolideer en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 20 Maart 1984.)

DAAR WORD BEPAAL deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing.

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

- (i) “die betrokke Wet” die Wet waarkragtens die betrokke finansiële instelling geregistreer is of geag word geregistreer te wees of waarkragtens hy opgawes of state aan die registeraar moet verstrek en ook die regulasies daarkragtens uitgevaardig; (viii) 5
- (ii) “finansiële instelling”—
 - (a) ’n versekeraar wat ingevolge die Versekeringswet, 1943 (Wet No. 27 van 1943), geregistreer is, en ook ’n agent van makelaars of versekeraars van Lloyds, of enige ander persoon met betrekking tot wie artikel 20bis van daardie Wet of ’n regulasie 15 uitgevaardig kragtens artikel 23A van daardie Wet van toepassing is;
 - (b) ’n pensioenfondsorganisasie wat ingevolge die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), geregistreer is;
 - (c) ’n onderlinge hulpvereniging wat ingevolge die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956), geregistreer is, of ’n persoon wat die besigheid van die bestuur en administrasie van die sake van so ’n onderlinge hulpvereniging dryf; 25
 - (d) ’n bankinstelling wat ingevolge die Bankwet, 1965 (Wet No. 23 van 1965), geregistreer is;
 - (e) ’n bouvereniging wat ingevolge die Bouverenigingswet, 1965 (Wet No. 24 van 1965), geregistreer is;
 - (f) ’n mediese skema wat ingevolge die Wet op Mediese Skemas, 1967 (Wet No. 72 van 1967), geregistreer is;
 - (g) ’n bestuursmaatskappy wat ingevolge die Wet op Beheer van Effekte-trustskemas, 1981 (Wet No. 54 van 1981), geregistreer is, of ’n effekte-trustskema soos in daardie Wet omskryf; (ii) 35
- (iii) “geregistreer”, met betrekking tot ’n finansiële instelling, ook voorlopig geregistreer; (vi)
- (iv) “inspekteur” ’n persoon wat kragtens artikel 2 as ’n inspekteur of tydelike inspekteur aangestel is; (iii) 40
- (v) “Minister” die Minister van Finansies; (v)

INSPECTION OF FINANCIAL INSTITUTIONS ACT, 1984

Act No. 38, 1984

This Act may be cited as the "Inspection of Financial Institutions Act, 1984".
 It is enacted by the State President and the House of Assembly of the Republic of South Africa, as follows:

ACT

To consolidate the laws relating to the inspection of the affairs of financial institutions and to provide for matters incidental thereto.

*(Afrikaans text signed by the State President.)
 (Assented to 20 March 1984.)*

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

1. In this Act, unless the context indicates otherwise—

Definitions.

- 5 (i) "auditor", in relation to a financial institution, means the person appointed as auditor of that institution under the Act concerned; (vi)
- 10 (ii) "financial institution" means—
 - (a) an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943), and includes an agent for brokers or underwriters at Lloyds, or any other person in respect of whom section 20bis of that Act or a regulation made under section 23A of that Act applies;
 - (b) a pension fund organization registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956);
 - (c) a friendly society registered in terms of the Friendly Societies Act, 1956 (Act No. 25 of 1956), or a person carrying on the business of the control and administration of the affairs of such a friendly society;
 - (d) a banking institution registered in terms of the Banks Act, 1965 (Act No. 23 of 1965);
 - (e) a building society registered in terms of the Building Societies Act, 1965 (Act No. 24 of 1965);
 - 15 (f) a medical scheme registered in terms of the Medical Schemes Act, 1967 (Act No. 72 of 1967);
 - (g) a management company registered in terms of the Unit Trusts Control Act, 1981 (Act No. 54 of 1981), or a unit trust scheme as defined in that Act; (ii)
 - 20 (iii) "inspector" means a person appointed as an inspector or temporary inspector under section 2; (iv)
 - 25 (iv) "local auditor", in relation to a financial institution, means the person appointed as local auditor of that institution under the Act concerned; (vii)
 - 30 (v) "Minister" means the Minister of Finance; (v)

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- (vi) "ouditeur", met betrekking tot 'n finansiële instelling, die persoon wat kragtens die betrokke Wet as ouditeur van daardie instelling aangestel is; (i)
- (vii) "plaaslike ouditeur", met betrekking tot 'n finansiële instelling, die persoon wat kragtens die betrokke Wet as plaaslike ouditeur van daardie instelling aangestel is; 5 (iv)
- (viii) "registrator", met betrekking tot 'n finansiële instelling geregistreer ingevolge—
- (a) die Versekeringswet, 1943 (Wet No. 27 van 1943), 10 die registrator van versekeringswese wat kragtens artikel 2 van daardie Wet aangestel is;
 - (b) die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), die registrator van pensioenfondse wat kragtens artikel 3 van daardie Wet aangestel is; 15
 - (c) die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956), die registrator van onderlinge hulpverenigings wat kragtens artikel 4 van daardie Wet aangestel is;
 - (d) die Bankwet, 1965 (Wet No. 23 van 1965), die 20 registrator van banke wat kragtens artikel 3 van daardie Wet aangestel is;
 - (e) die Bouvereningswet, 1965 (Wet No. 24 van 1965), die registrator van bouverenigings wat kragtens artikel 3 van daardie Wet aangestel is; 25
 - (f) die Wet op Mediese Skemas, 1967 (Wet No. 72 van 1967), die registrator van mediese skemas wat kragtens artikel 13 van daardie Wet aangestel is;
 - (g) die Wet op Beheer van Effekte-trustskemas, 1981 30 (Wet No. 54 van 1981), die registrator van effekte-trustmaatskappye wat kragtens artikel 2 van daardie Wet aangestel is:
- Met dien verstande dat vir die doeleindes van hierdie woordomskrywing 'n agent van makelaars of versekeraars van Lloyds geag word 'n versekeraar te wees wat ingevolge die Versekeringswet, 1943 (Wet No. 27 van 1943), geregistreer is; (vii)
- (ix) "waardeerde", met betrekking tot 'n finansiële instelling wat ingevolge onderskeidelik die Versekeringswet, 40 1943 (Wet No. 27 van 1943), die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), of die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956), geregistreer is, dieselfde as wat dit in die betrokke Wet beteken. (ix) 45

Aanstelling
van inspekteurs.

2. (1) Behoudens die wette op die Staatsdiens moet daar van tyd tot tyd inspekteurs kragtens hierdie Wet aangestel word.

(2) Wanneer hy dit nodig ag, kan die registrator, met die goedkeuring van die Minister, 'n persoon wat nie in die heetlydse diens van die Staat is nie, as 'n tydelike inspekteur aanstel om 50 die registrator of 'n inspekteur in subartikel (1) bedoel met 'n inspeksie kragtens hierdie Wet van die sake of enige deel van die sake van 'n finansiële instelling of van 'n persoon, vennootskap of maatskappy wat nie as 'n finansiële instelling geregistreer is nie, te help. 55

(3) Voordat die registrator 'n tydelike inspekteur kragtens subartikel (2) aanstel, moet hy alle redelike stappe doen om te verseker dat die persoon wat hy aanstel in staat sal wees om objektief en onpartydig oor die sake van die betrokke finansiële instelling, persoon, vennootskap of maatskappy verslag te doen. 60

(4) 'n Tydelike inspekteur kragtens subartikel (2) aangestel, het vir die doel van 'n inspeksie waarvoor hy aangestel is al die bevoegdhede en pligte van 'n inspekteur kragtens hierdie Wet.

(5) Elke inspekteur en elke tydelike inspekteur wat aldus aangestel word, moet van 'n sertifikaat wat deur die registrator onderteken is, voorsien word waarin gemeld word dat hy as 'n inspekteur of tydelike inspekteur kragtens hierdie Wet aangestel is. 65

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- (vi) "registered", in relation to a financial institution, includes provisionally registered; (iii)
- (vii) "registrar", in relation to a financial institution registered in terms of—
 - 5 (a) the Insurance Act, 1943 (Act No. 27 of 1943), means the registrar of insurance appointed under section 2 of that Act;
 - (b) the Pension Funds Act, 1956 (Act No. 24 of 1956), means the registrar of pension funds appointed under section 3 of that Act;
 - 10 (c) the Friendly Societies Act, 1956 (Act No. 25 of 1956), means the registrar of friendly societies appointed under section 4 of that Act;
 - (d) the Banks Act, 1965 (Act No. 23 of 1965), means the registrar of banks appointed under section 3 of that Act;
 - 15 (e) the Building Societies Act, 1965 (Act No. 24 of 1965), means the registrar of building societies appointed under section 3 of that Act;
 - (f) the Medical Schemes Act, 1967 (Act No. 72 of 1967), means the registrar of medical schemes appointed under section 13 of that Act;
 - 20 (g) the Unit Trusts Control Act, 1981 (Act No. 54 of 1981), means the registrar of unit trust companies appointed under section 2 of that Act:
- 25 Provided that for the purposes of this definition an agent for brokers or underwriters at Lloyds shall be deemed to be an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943); (viii)
- 30 (viii) "the Act concerned" means the Act under which the financial institution concerned is registered or deemed to be registered or under which it is required to render returns or statements to the registrar, and includes the regulations framed thereunder; (i)
- 35 (ix) "valuator", in relation to a financial institution registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943), the Pension Funds Act, 1956 (Act No. 24 of 1956), or the Friendly Societies Act, 1956 (Act No. 25 of 1956), respectively, bears the meaning assigned thereto in the Act concerned. (ix)

2. (1) Subject to the laws governing the public service there shall from time to time be appointed inspectors under this Act. Appointment of inspectors.

(2) When he considers it necessary, the registrar may, with the approval of the Minister, appoint a person who is not in the full-time employment of the State, as a temporary inspector to assist the registrar or an inspector referred to in subsection (1) with an inspection under this Act of the affairs or any part of the affairs of a financial institution or of any person, partnership or company not registered as a financial institution.

50 (3) Before the registrar appoints a temporary inspector under subsection (2), he shall take all reasonable steps to ensure that the person he appoints will be able to report objectively and impartially on the affairs of the financial institution, person, partnership or company concerned.

55 (4) A temporary inspector appointed under subsection (2) has for the purpose of an inspection for which he has been appointed all the powers and duties of an inspector under this Act.

(5) Every inspector and every temporary inspector so appointed shall be furnished with a certificate signed by the registrar stating that he has been appointed as an inspector or temporary inspector under this Act.

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WET OP INSPEKSIE VAN FINANSIEËLE INSTELLINGS, 1984

Inspeksie van
die sake van
'n finansiële
instelling.

3. (1) Die registrateur kan te eniger tyd die sake of enige deel van die sake van 'n finansiële instelling inspekteer of aan 'n inspekteur opdrag gee om so 'n inspeksie uit te voer en kan in die besonder so 'n inspeksie uitvoer of laat uitvoer—

- (a) indien die finansiële instelling versuim het om 'n opgawe of staat wat by of kragtens die betrokke Wet voorgeskryf is, in te dien binne die tydperk wat deur of kragtens daardie Wet voorgeskryf is; 5
- (b) indien die finansiële instelling, nadat hy 'n onjuiste of onvolledige opgawe of staat wat by of kragtens die betrokke Wet voorgeskryf is, ingedien het, nie daardie opgawe of staat verbeter of voltooi het nie binne 'n tydperk van 30 dae vanaf die datum waarop die registrateur hom skriftelik aangesê het om daardie opgawe of staat te verbeter of te voltooi; 10
- (c) indien die registrateur inligting van die finansiële instelling geëis het wat hy kragtens die betrokke Wet geregty was om te eis, en die instelling nie binne die tydperk deur die registrateur bepaal (wat nie minder as 30 dae mag wees nie vanaf die datum waarop hy die inligting skriftelik geëis het) daardie inligting volledig en op bevredigende wyse verskaf het nie; 15
- (d) indien uit 'n opgawe wat deur die finansiële instelling aan die registrateur verstrekk is, dit blyk dat die finansiële instelling versuim het om aan 'n bepaling van wesenlike belang van die betrokke Wet te voldoen; 20
- (e) indien die registrateur rede het om te glo dat die finansiële instelling 'n bepaling van artikel 20bis van die Versekeringswet, 1943 (Wet No. 27 van 1943), of van 'n regulasie wat kragtens artikel 23A van daardie Wet 30 uitgevaardig is, oortree het;
- (f) indien die registrateur dit wenslik ag om vas te stel of enige persoon 'n belang, regstreeks of onregstreeks, in of in die besigheid van die finansiële instelling het of gehad het; 35
- (g) indien die ouditeur, plaaslike ouditeur of waardeerdeerder van die finansiële instelling aan die registrateur ingevolge die betrokke Wet rapporteer dat 'n onreëlmagtigheid of ongewenste praktyk in die bestuur van die besigheid van die finansiële instelling aan die finansiële 40 instelling gerapporteer is en nie binne die tydperk by of kragtens dié Wet voorgeskryf of, indien so 'n tydperk nie aldus voorgeskryf word nie, binne 'n tydperk van 30 dae vanaf die datum waarop die onreëlmagtigheid of ongewenste praktyk aan die instelling deur die ouditeur, 45 plaaslike ouditeur of waardeerdeerder gerapporteer is, verbeter is nie;
- (h) indien iemand om so 'n inspeksie aansoek gedoen het en sy aansoek gesteun het met die getuenis wat die registrateur mag vereis ten einde te bewys dat die aansoeker 'n goeie rede het om die inspeksie te verlang. 50

(2) Iemand wat om 'n inspeksie van 'n finansiële instelling aansoek gedoen het, kan, met die goedkeuring van die Minister, deur die registrateur aangesê word om die sekerheid wat die registrateur bevredigend en voldoende beskou, te stel vir die betaling van die besoldiging van, en alle uitgawes noodsaklikerwys aangegaan deur, 'n tydelike inspekteur wat ingevolge artikel 2 (2) aangestel mag word.

4. (1) Ten einde 'n inspeksie kragtens artikel 3 uit te voer, kan die registrateur of 'n inspekteur—

- (a) te eniger tyd gedurende normale kantoorure sonder voorafgaande kennisgewing enige perseel deur 'n finansiële instelling gebruik, betree en die voorlegging aan hom van enige van, of al, die finansiële instelling se sekuriteite, boeke, aantekeninge, rekeninge of dokumente eis; 60
- (b) enige perseel deur 'n finansiële instelling gebruik, deursoek vir geld, sekuriteite, boeke, aantekeninge, rekeninge of dokumente;

Bevoegdhede van
die registrateur
en inspekteurs.

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3. (1) The registrar may at any time inspect the affairs or any part of the affairs of a financial institution or instruct an inspector to carry out such an inspection and may in particular carry out such an inspection or cause such an inspection to be carried out—

Inspection of
the affairs of
a financial
institution.

- (a) if the financial institution has failed to render a return or statement prescribed by or under the Act concerned within the period prescribed by or under that Act;
- (b) if the financial institution, after having rendered an incorrect or incomplete return or statement prescribed by or under the Act concerned, has not corrected or completed that return or statement within a period of 30 days from the date upon which the registrar called upon it in writing to correct or complete that return or statement;
- (c) if the registrar has required the financial institution to furnish him with information which he was entitled under the Act concerned to require it to furnish, and the institution has not within the period determined by the registrar (which shall not be less than 30 days from the date upon which he required it in writing to furnish the information) fully and satisfactorily furnished that information;
- (d) if a return furnished by the financial institution to the registrar shows that the financial institution has failed to comply with a material provision of the Act concerned;
- (e) if the registrar has reason to believe that the financial institution has contravened a provision of section 20bis of the Insurance Act, 1943 (Act No. 27 of 1943), or of a regulation made under section 23A of that Act;
- (f) if the registrar considers it desirable to ascertain whether a person has or had any interest, direct or indirect, in or in the business of the financial institution;
- (g) if the auditor, local auditor or valuator of the financial institution reports to the registrar in terms of the Act concerned that an irregularity or undesirable practice in the conduct of the financial institution's business was reported to the financial institution and was not corrected within the period prescribed by or under that Act or, if such a period is not so prescribed, within a period of 30 days from the date upon which the irregularity or undesirable practice was reported to the institution by the auditor, local auditor or valuator;
- (h) if a person has applied for such an inspection and has supported his application by such evidence as the registrar may require in order to show that the applicant has good reason for requiring the inspection.

(2) A person who has applied for an inspection of a financial institution may, with the approval of the Minister, be required by the registrar to furnish such security as the registrar may deem satisfactory and sufficient to defray the remuneration of, and all expenses necessarily incurred by, any temporary inspector who may be appointed under section 2 (2).

55 4. (1) In order to carry out an inspection under section 3 the registrar or an inspector may—

Powers of the
registrar and
inspectors.

- (a) at any time during normal office hours without previous notice enter any premises occupied by a financial institution and require the production to him of any or all of the financial institution's securities, books, records, accounts or documents;
- (b) search any premises occupied by a financial institution for any moneys, securities, books, records, accounts or documents;

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- (c) enige brandkuis, brandkas of ander houer waarin hy vermoed dat geld, sekuriteite, boeke, aantekeninge, rekeninge of dokumente van 'n finansiële instelling gehou word, oopmaak of laat oopmaak;
- (d) alle sekuriteite, boeke, aantekeninge, rekeninge en dokumente van 'n finansiële instelling ondersoek en uittreksels daaruit en afskrifte daarvan maak of, teen uitreiking deur hom van 'n volledige kwitansie vir sulke sekuriteite, boeke, aantekeninge, rekeninge of dokumente, hulle tydelik van die perseel van die finansiële instelling verwyder vir daardie doel;
- (e) 'n verduideliking vra van enige inskrywings in die boeke, aantekeninge, rekeninge of dokumente van 'n finansiële instelling;
- (f) teen uitreiking deur hom van 'n volledige kwitansie, beslag lê op enige sekuriteite, boeke, aantekeninge, rekeninge of dokumente van 'n finansiële instelling wat na sy mening bewys mag lewer van 'n misdryf of onreëlmatigheid;
- (g) enige sulke sekuriteite, boeke, aantekeninge, rekening of dokumente waarop beslag gelê is, behou vir so lank hulle vir enige strafsaak of ander verrigtinge benodig mag word.

(2) Wanneer die registrateur of 'n inspekteur 'n inspeksiekragtens artikel 3 uitvoer, kan hy 'n persoon wat 'n direkteur, ouditeur, plaaslike ouditeur, prokureur, waardeerdeer, agent, dienaar, werknemer, lid, skuldenaar, skuldeiser, polishouer of aandeelhouer van 'n finansiële instelling is of voorheen was, onder eed ondervra met betrekking tot die besigheid van die finansiële instelling, en kan hy vir die doel van so 'n ondervraging die persoon 'n eed of bevestiging ople: Met dien verstande dat die persoon wat ondervra word, hetsy onder eed of nie, sy regadviseur by die ondervraging teenwoordig mag hé.

(3) 'n Persoon in subartikel (2) bedoel, moet, wanneer hy deur die registrateur of 'n inspekteur gevra word om dit te doen, elke sekuriteit, boek, aanteking, rekening of dokument van die finansiële instelling wat vir hom toeganklik is, aan die registrateur of die inspekteur voorlê, en moet enige inligting omtrent die sake van die finansiële instelling waaroer hy besik, aan die registrateur of die inspekteur, op sy versoek, verstrek.

(4) Met die skriftelike magtiging van die registrateur kan 'n inspekteur ook die sekuriteite, boeke, aantekeninge, rekeninge of dokumente inspekteer van enige persoon, vennootskap of maatskappy—

- (a) indien die registrateur rede het om te glo dat die finansiële instelling wie se sake geïnspekteer word, 'n direkte of indirekte belang in of in die besigheid van daardie persoon, vennootskap of maatskappy het of gehad het;
- (b) indien die registrateur rede het om te glo dat daardie persoon, vennootskap of maatskappy 'n direkte of indirekte belang in of in die besigheid van die finansiële instelling het of gehad het;
- (c) indien die registrateur dit vir 'n behoorlike inspeksie van die sake van die finansiële instelling nodig ag dat daardie sekuriteite, boeke, aantekeninge, rekeninge of dokumente geïnspekteer word,

en die bepalings van subartikels (1), (2) en (3) is *mutatis mutandis* ten opsigte van so 'n inspeksie van toepassing: Met dien verstande dat vir die doeleindes van paragraaf (b) 'n persoon wat aandale as 'n genomineerde of in trust namens 'n ander persoon in 'n finansiële instelling hou, geag word 'n belang in die finansiële instelling te hé, en op versoek van die inspekteur die naam van daardie ander persoon bekend moet maak.

(5) 'n Inspekteur moet op versoek die sertifikaat toon van sy aanstelling as 'n inspekteur of tydelike inspekteur wat deur die registrateur ingevalle artikel 2 (5) aan hom verskaf is of die skriftelike magtiging wat deur die registrateur ingevalle subartikel (4) van hierdie artikel aan hom verleen is.

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- (c) open or cause to be opened any strongroom, safe or other container in which he suspects any moneys, securities, books, records, accounts or documents of a financial institution are kept;
- 5 (d) examine and make extracts from and copies of all securities, books, records, accounts and documents of a financial institution or, against a full receipt issued by him for such securities, books, records, accounts or documents, remove them temporarily from the premises of the financial institution for that purpose;
- 10 (e) require an explanation of any entries in the books, records, accounts or documents of a financial institution;
- (f) against a full receipt issued by him, seize any securities, books, records, accounts or documents of a financial institution which in his opinion may afford evidence of an offence or irregularity;
- 15 (g) retain any such seized securities, books, records, accounts or documents for as long as they may be required for any criminal or other proceedings.
- 20 (2) In carrying out an inspection under section 3 the registrar or an inspector may examine under oath in relation to the business of a financial institution any person who is or formerly was a director, auditor, local auditor, attorney, valuator, agent, servant, employee, member, debtor, creditor, policy-holder or shareholder of the financial institution and he may administer an oath or affirmation to that person for the purpose of such an examination: Provided that the person examined, whether under oath or not, may have his legal adviser present at the examination.
- 30 (3) A person contemplated in subsection (2) shall, when he is requested by the registrar or an inspector to do so, produce to the registrar or the inspector every security, book, record, account or document of the financial institution to which he has access, and shall give the registrar or the inspector, at his request, any information at his disposal relating to the affairs of the financial institution.
- (4) An inspector may, with the written authority of the registrar, also inspect the securities, books, records, accounts or documents of any person, partnership or company—
- 40 (a) if the registrar has reason to believe that the financial institution the affairs of which are being inspected, has or had a direct or indirect interest in or in the business of that person, partnership or company;
- (b) if the registrar has reason to believe that such person, partnership or company has or had a direct or indirect interest in or in the business of the financial institution;
- 45 (c) if the registrar considers it necessary for a proper inspection of the affairs of the financial institution that those securities, books, records, accounts or documents be inspected,
- 50 and the provisions of subsections (1), (2) and (3) apply *mutatis mutandis* in respect of such an inspection: Provided that for the purposes of paragraph (b) a person who holds shares as a nominee or in trust on behalf of another person in a financial institution, is deemed to have an interest in the financial institution, and shall upon request of the inspector disclose the name of that other person.
- (5) An inspector shall on demand produce the certificate of his appointment as an inspector or temporary inspector furnished to him by the registrar under section 2 (5) or the written authority granted to him by the registrar under subsection (4) of this section.

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Inspeksieverslag.

(6) Die finansiële instelling op wie se sekuriteite, boeke, aantekeninge, rekeninge of dokumente kragtens subartikel (1) (f) beslag gelê is of sy wettige verteenwoordiger is geregtig om gedurende kantoorure onder die toesig wat die registrateur of 'n inspekteur mag bepaal, hulle te ondersoek en inskrywings daarin en uittreksels daaruit te maak. 5

Inspeksie van sake van persoon, vennootskap of maatskappy wat nie as finansiële instelling geregistreer is nie.

5. Wanneer 'n inspekteur sy inspeksie voltooi het, moet hy 'n verslag daaroor opstel wat hy aan die registrateur moet stuur, en indien die inspeksie deur die registrateur uitgevoer is, moet hy insgelyks 'n verslag daaroor opstel, en die registrateur moet 'n afskrif van elke sodanige verslag aan die betrokke finansiële instelling stuur. 10

Koste van inspeksie.

6. (1) Indien die Minister rede het om te vermoed dat 'n persoon, vennootskap of maatskappy wat nie as 'n finansiële instelling geregistreer is nie, die besigheid van 'n finansiële instelling dryf, kan hy die registrateur gelas om die sake of enige deel van die sake van so 'n persoon, vennootskap of maatskappy te inspekteer of te laat inspekteer ten einde vas te stel of die besigheid van 'n finansiële instelling deur daardie persoon, vennootskap of maatskappy gedryf word al dan nie. 20

(2) Die bepalings van artikels 4 en 5 is *mutatis mutandis* ten opsigte van so 'n inspeksie van toepassing.

Geheimhouding.

7. Die besoldiging van, en alle koste noodsaaiklikerwys aangegaan deur, 'n tydelike inspekteur kragtens artikel 2 (2) aangestel in verband met 'n inspeksie van die sake van 'n finansiële instelling, persoon, vennootskap of maatskappy deur hom uitgevoer, word deur die Staat gedra: Met dien verstande dat die Minister na goeddunke dié besoldiging en koste in sy geheel of ten dele kan verhaal op daardie finansiële instelling, persoon, vennootskap of maatskappy indien die inspeksie nodig blyk te gewees het, of, indien die inspeksie onnoodig blyk te gewees het, in sy geheel of ten dele op die persoon wat om die inspeksie aansoek gedoen het. 30

8. (1) 'n Persoon wat 'n inspeksie kragtens hierdie Wet uitvoer, moet ten aansien van alle sake wat in die uitvoering van sy pligte tot sy kennis kom, geheimhouding bewaar of help bewaar, en mag nie so 'n saak aan enigiemand behalwe aan die registrateur of die betrokke finansiële instelling, persoon, vennootskap of maatskappy of sy wettige verteenwoordiger of op bevel van 'n gereghof medeele nie: Met dien verstande dat— 40

- (a) enige inligting deur die registrateur verkry in die loop van 'n ondersoek kragtens hierdie Wet of uit 'n verslag van 'n inspekteur deur die registrateur of sy personeel gebruik kan word in verband met enige finansiële instelling, persoon, vennootskap of maatskappy; en 45
- (b) indien die registrateur rede het om te glo dat 'n misdryf of onreëlmatigheid rakende 'n Staatsdepartement begaan is, hy inligting aangaande daardie misdryf of onreëlmatigheid aan die betrokke departement kan oor-dra. 50

(2) Behoudens die bepalings van subartikel (1) moet elke lid van die registrateur se personeel geheimhouding bewaar of help bewaar ten aansien van alle sake wat in die uitvoering van sy amptelike pligte tot sy kennis mag kom uit 'n verslag aan die registrateur of 'n inspekteur. 55

Misdrywe en strawwe.

9. (1) 'n Persoon wat—

- (a) wanneer hy deur die registrateur of 'n inspekteur ondersoek word om 'n eed of 'n bevestiging af te lê, weier om dit te doen; 60
- (b) sonder wettige verskoning weier of versuim om 'n vraag met betrekking tot die sake van 'n finansiële instelling, persoon, vennootskap of maatskappy wat die registrateur of 'n inspekteur by die uitoefening van sy

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(6) The financial institution of which the securities, books, records, accounts or documents have been seized under subsection (1) (f) or its lawful representative is entitled to examine, make entries in and make extracts from them during office hours 5 under such supervision as the registrar or an inspector may determine.

5. When an inspector has completed his inspection, he shall 10 prepare a report thereon which he shall submit to the registrar, Report on and if the inspection was carried out by the registrar, he shall 15 likewise prepare a report thereon, and the registrar shall transmit a copy of every such report to the financial institution concerned.

6. (1) If the Minister has reason to suspect that a person, partnership or company which is not registered as a financial institution, 15 is carrying on the business of a financial institution, he may direct the registrar to inspect or cause to be inspected the affairs or any part of the affairs of that person, partnership or company in order to establish whether or not the business of a financial 20 institution is being carried on by that person, partnership or company.

Inspection of affairs of person, partnership or company not registered as a financial institution.

(2) The provisions of sections 4 and 5 apply *mutatis mutandis* in respect of such an inspection.

7. The remuneration of, and all expenses necessarily incurred by, a temporary inspector appointed under section 2 (2) in connection with an inspection of the affairs of a financial institution, 25 person, partnership or company carried out by him shall be borne by the State: Provided that the Minister may in his discretion recover such remuneration and expenses in whole or in part from that financial institution, person, partnership or company if 30 the inspection proved to have been necessary, or, if the inspection proved to have been unnecessary, in whole or in part from the person who applied for the inspection.

Expenses of inspection.

8. (1) A person carrying out an inspection under this Act shall preserve, or aid in preserving, secrecy with regard to all matters 35 that may come to his knowledge in the performance of his duties and shall not communicate any such matter to any person save to the registrar or the financial institution, person, partnership or company concerned or its lawful representative or by order of a court of law: Provided that—

Observance of secrecy.

- 40 (a) any information obtained by the registrar in the course of an inspection under this Act or from a report by an inspector may be used by the registrar or his staff in connection with any financial institution, person, partnership or company; and
 45 (b) if the registrar has reason to believe that an offence or irregularity affecting any department of State has been committed, he may convey information regarding that offence or irregularity to the department concerned.

(2) Subject to the provisions of subsection (1) every member 50 of the staff of the registrar shall preserve, or aid in preserving, secrecy with regard to all matters that may come to his knowledge in the performance of his official duties from any report by the registrar or an inspector.

- 55 9. (1) A person who—
 (a) when requested by the registrar or an inspector to take an oath or to make an affirmation, refuses to do so;
 (b) without lawful excuse refuses or fails to answer to the best of his ability a question put to him by the registrar or an inspector in the exercise of his powers or the performance of his duties and relating to the affairs of a fi-

Offences and penalties.

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(c) opsetlik valse inligting aan die registrator of 'n inspekteur verstrek;

(d) weier of versuim om na sy beste vermoë aan 'n redelike versoek deur die registrator of 'n inspekteur by die uitoefening van sy bevoegdhede of die uitvoering van sy pligte aan hom gerig, te voldoen;

(e) opsetlik die registrator of 'n inspekteur by die uitoefening van sy bevoegdhede of die uitvoering van sy pligte hinder;

(f) artikel 8 oortree,
is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R1 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met daardie boete sowel as daardie gevangenisstraf.

(2) Iemand wat, nadat die registrator of 'n inspekteur hom 'n eed of bevestiging opgelê het, wetens 'n valse verklaring doen met betrekking tot die saak waaraan die inspeksie gaan, word geag aan meieneed skuldig te wees.

Toepassing in Suidwes-Afrika.

10. Hierdie Wet en enige wysiging daarvan is van toepassing ook in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel.

Herroeping en wysiging van wette.

11. (1) Behoudens die bepaling van subartikel (2) word die wette in die Bylae vermeld hierby herroep of gewysig in die mate in die derde kolom daarvan uiteengesit.

(2) Enigiets gedoen of geag gedoen te gewees het kragtens 'n bepaling van 'n wet wat by subartikel (1) herroep of gewysig word en wat kragtens 'n bepaling van hierdie Wet gedoen sou kon word, word geag kragtens laasgenoemde bepaling gedoen te wees.

Kort titel.

12. Hierdie Wet heet die Wet op Inspeksie van Finansiële Instellings, 1984.

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- nancial institution, person, partnership or company, even though the answer may tend to incriminate that person;
- (c) wilfully gives any false information to the registrar or an inspector;
- (d) refuses or fails to comply to the best of his ability with any reasonable request made to him by the registrar or an inspector in the exercise of his powers or the performance of his duties;
- (e) wilfully hinders the registrar or an inspector in the exercise of his powers or the performance of his duties;
- (f) contravenes section 8,
- is guilty of an offence and liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding two years or to both that fine and that imprisonment.
- (2) A person who, having taken an oath or made an affirmation before the registrar or an inspector, knowingly makes a false statement in relation to the matter which is the subject of the inspection, is deemed to be guilty of perjury.

10. This Act and any amendment thereof also apply to the territory of South West Africa, including the Eastern Caprivi Zipfel.

Application to
South West
Africa.

11. (1) Subject to the provisions of subsection (2) the laws mentioned in the Schedule are hereby repealed or amended to the extent set out in the third column thereof.

Repeal and
amendment of
laws.

(2) Anything done or deemed to have been done under any provision of a law repealed or amended by subsection (1) and which could be done under a provision of this Act, is deemed to have been done under the last-mentioned provision.

12. This Act is called the Inspection of Financial Institutions Short title.
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Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 68 van 1962	Wet op Inspeksie van Finansiële Instellings, 1962	Die herroeping van die geheel
Wet No. 23 van 1965	Bankwet, 1965	Die wysiging van die Bylae deur die skrapping van die inskrywings betreffende die Wet op Inspeksie van Finansiële Instellings, 1962
Wet No. 24 van 1965	Bouverenigingswet, 1965	Die wysiging van die Bylae deur die skrapping van die inskrywings betreffende die Wet op Inspeksie van Finansiële Instellings, 1962
Wet No. 43 van 1975	Wysigingswet op Mediese Skemas, 1975	Die herroeping van artikel 33
Wet No. 101 van 1976	Wysigingswet op Finansiële Instellings, 1976	Die herroeping van artikel 32
Wet No. 94 van 1977	Wysigingswet op Finansiële Instellings, 1977	Die herroeping van artikels 15 en 16
Wet No. 80 van 1978	Wysigingswet op Finansiële Instellings, 1978	Die herroeping van artikels 15 en 16
Wet No. 54 van 1981	Wet op Beheer van Effektetrustskemas, 1981	Die wysiging van die Bylae deur die skrapping van die inskrywings betreffende die Wet op Inspeksie van Finansiële Instellings, 1962
Wet No. 82 van 1982	Wysigingswet op Finansiële Instellings, 1982	Die herroeping van artikel 15

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Schedule

LAWS REPEALED OR AMENDED

Number and year of law	Short title	Extent of repeal or amendment
Act No. 68 of 1962	Inspection of Financial Institutions Act, 1962	The repeal of the whole
Act No. 23 of 1965	Banks Act, 1965	The amendment of the Schedule by the deletion of the entries relating to the Inspection of Financial Institutions Act, 1962
Act No. 24 of 1965	Building Societies Act, 1965	The amendment of the Schedule by the deletion of the entries relating to the Inspection of Financial Institutions Act, 1962
Act No. 43 of 1975	Medical Schemes Amendment Act, 1975	The repeal of section 33
Act No. 101 of 1976	Financial Institutions Amendment Act, 1976	The repeal of section 32
Act No. 94 of 1977	Financial Institutions Amendment Act, 1977	The repeal of sections 15 and 16
Act No. 80 of 1978	Financial Institutions Amendment Act, 1978	The repeal of sections 15 and 16
Act No. 54 of 1981	Unit Trusts Control Act, 1981	The amendment of the Schedule by the deletion of the entries relating to the Inspection of Financial Institutions Act, 1962
Act No. 82 of 1982	Financial Institutions Amendment Act, 1982	The repeal of section 15

NOTICE

DEPARTMENT OF INFORMATION

NOTICE TO INVESTIGATOR OR OFFICER IN CHARGE	NOTICE	NOTICE TO INVESTIGATOR OR OFFICER IN CHARGE
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