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**STAATSKOERANT**  
**VAN DIE REPUBLIEK VAN SUID-AFRIKA**  
**REPUBLIC OF SOUTH AFRICA**  
**GOVERNMENT GAZETTE**

PRYS 40c PRICE

Plus AVB/GST

As 'n Nuusblad by die Poskantoor Geregistreer

BUITELANDS 50c ABROAD

Registered at the Post Office as a Newspaper

POSVRY · POST FREE



Vol. 230

PRETORIA, 10

AUGUSTUS 1984  
AUGUST

No. 9370

**ALGEMENE KENNISGEWING**

**KENNISGEWING 577 VAN 1984**

**DEPARTEMENT VAN FINANSIES**

BOUVERENIGINGSWYSIGINGSWETSONTWERP,  
1985

Die volgende Konsepwetsontwerp word hierby vir algemene inligting en kommentaar gepubliseer.

Enige kommentaar of vertoe ten opsigte van die Wetsontwerp moet nie later nie as 19 September 1984 *skriftelik* by die Registrateur van Bouverenigings, Privaatsak X238, Pretoria, 0001, ingedien word.

**KONSEPWETSONTWERP**

Tot wysiging van die wetsbepalings betreffende die registrasie en werkzaamhede van, die verlening van regspersoonlikheid aan en die reëling, bestuur en ontbinding van bouverenigings en om voorsiening te maak vir die registrasie van bouverenigingbeheermaatskappye

*Om deur die Minister van Finansies ingedien te word.*

Daar word bepaal deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:

**Woordomskrywing**

1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Wet—

“aandeel” soos bedoel in artikel 1 (1) van die Maatskappywet, 1973 (Wet 61 van 1973);

“aandeel-deposito”, 'n belegging by 'n bouvereniging wat nie kragtens die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is nie en waardeur die persoon in wie se naam die belegging gemaak is lidmaatskap van die bouvereniging verkry;

“bank” of “bankinstelling” 'n bankinstelling wat anders as voorlopig geregistreer is kragtens die Bankwet, 1965 (Wet 23 van 1965);

**GENERAL NOTICE**

**NOTICE 577 OF 1984**

**DEPARTMENT OF FINANCE**

BUILDING SOCIETIES AMENDMENT  
BILL, 1985

The following Draft Bill is hereby published for general information.

Any comments or representations in respect of the Bill should be lodged *in writing* with the Registrar of Building Societies, Private Bag X238, Pretoria, 0001, not later than 10 September 1984.

**DRAFT BILL**

To amend the laws relating to the registration and activities, incorporation, regulation, management and dissolution of building societies and to provide for the registration of building society controlling companies

*To be introduced by the Minister of Finance*

Be it enacted by the State President and the House of Assembly of the Republic of South Africa, as follows:

**Definitions**

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

“associate”, in connection with a person, means the controlling company (if any) or a subsidiary company of that person, a subsidiary company of any of the said companies, a controlling shareholder of that person or such a shareholder of his controlling company, and a business partner of that person, and, in connection with a company, includes any director or officer of such company;

“advance” includes one or more advances on the security of one property or of two or more properties jointly;

“beherende maatskappy”, met betrekking tot ‘n bouvereniging, ‘n bouverenigingbeheermaatskappy en ‘n beherende bouvereniging;

“binnelandse aandeelhouer” ‘n aandeelhouer wat een van onderstaande is:

(a) ‘n inwoner van die Republiek;

(b) ‘n binnelandse maatskappy;

(c) ‘n pensioenfonds wat ingevolge die Wet op Pensioenfondse, 1956 (Wet 24 van 1956), geregistreer is, uitgesonderd ‘n pensioenfonds waar die hoofkantoor van die vereniging wat die besigheid van daardie fonds dryf, of van elke werkewer wat ‘n party by daardie fonds is, buite die Republiek is;

(d) ‘n onderlinge hulpvereniging wat ingevolge die Wet op Onderlinge Hulpverenigings, 1956 (Wet 25 van 1956), geregistreer is;

(e) ‘n vereniging wat in die Republiek geïnkorporeer is en wat ‘n onderlinge versekeraar is soos in die Versekeringswet, 1943 (Wet 27 van 1943), omskryf;

(f) ‘n persoon wat deur die Registrateur as binnelandse aandeelhouer goedgekeur is;

en het “binnelandse aandeelhouding” ‘n ooreenstemmende betekenis;

“binnelandse maatskappy” ‘n maatskappy wat in die Republiek geïnkorporeer is, waarin inwoners van die Republiek regstreeks of onregstreeks aandele hou wat in totaal gelyk is aan minstens vyftig persent van al die uitgereikte aandele in die maatskappy, en wat deur inwoners van die Republiek beheer word;

“bouvereniging” ‘n persoon wat nie onder die Bankwet, 1965 (Wet 23 van 1965), geregistreer is nie en wat ingevolge die bepaling van artikel 1 (2A) van bedoelde Wet die neem van deposito’s as bedryf uitoefen en wat die grootste gedeelte van die deposito’s wat hy ontvang, gebruik vir die toestaan van lenings op sekuriteit van verbande oor stedelike vaste eiendom;

“bouverenigingaandeel” ‘n opbetaalde onbepaalde termynaandeel, ‘n subskripsieaandeel of ‘n vastetermynaandeel wat deur ‘n persoon ingevolge die bepaling van die Bouverenigingswet, 1965 (Wet 24 van 1965), verkry is en wat nie voor die inwerkingtreding van hierdie Wet afgelos was nie;

“bouverenigingbeheermaatskappy”, behoudens die bepaling van subartikel (2), ‘n maatskappy wat regstreeks of onregstreeks (insluitende deur middel van ‘n reëling met ‘n ander persoon of ‘n belang in ‘n ander maatskappy) in staat is om ‘n bouvereniging te beheer, en het “beheerde” en “beherende” ooreenstemmende betekenis;

“buitelandse aandeelhouer” ‘n ander aandeelhouer as ‘n binnelandseaandeelhouer, en het “buitelandse aandeelhouding” ‘n ooreenstemmende betekenis;

“diskontohuis” ‘n instelling wat kragtens die Bankwet, 1965, as ‘n diskontohuis geregistreer is of geag word te wees;

“ekwiteitsaandelekapitaal” en “ekwiteitsaandele” soos bedoel in artikel 1 (1) van die Maatskappywet, 1973 (Wet 61 van 1973), en het “aandelekapitaal” ‘n ooreenstemmende betekenis;

“filiaalmaatskappy” ‘n maatskappy ten opsigte waarvan ‘n ander regpersoon in staat is om regstreeks of onregstreeks beheer uit te oefen op die wyse in die woordomskrywing van “bouverenigingbeheermaatskappy” beoog;

“geassosieerde”, in verband met ‘n persoon, die beherende maatskappy (indien daar een is) of ‘n filiaalmaatskappy van daardie persoon, ‘n filiaalmaatskappy van enige van genoemde maatskappye,

“bank” or “banking institution” means a banking institution registered otherwise than provisionally under the Banks Act, 1965 (Act 23 of 1965);

“building society” means a person who is not registered in terms of the Banks Act, 1965 (Act 23 of 1965), and who is carrying on the business of accepting deposits in terms of the provisions of section 1 (2A) of the said Act and who is using the largest proportion of the deposits received for the granting of loans on the security of mortgage bonds over urban immovable property;

“building society controlling company” means, subject to the provisions of subsection (2), a company which can control directly or indirectly (including by means of an arrangement with another person or an interest in another company) a building society and “controlled” and “controlling” have corresponding meanings;

“building society share” means an indefinite period paid-up share, a subscription share or a fixed period share acquired by a person in terms of the provisions of the Building Societies Act, 1965 (Act 24 of 1965), and which was not redeemed prior to the commencement of this Act;

“controlling company”, in relation to a building society means a building society controlling company and a controlling building society;

“discount house” means an institution registered or deemed to be registered as a discount house under the Banks Act, 1965 (Act 23 of 1965);

“domestic company” means a company which has been incorporated in the Republic, in which residents of the Republic directly or indirectly hold shares which in the aggregate are equal to at least 50 per cent of all the issued shares in the company, and which is controlled by persons who are residents of the Republic;

“domestic shareholder” means a shareholder who is:

(a) a resident of the Republic;

(b) a domestic company;

(c) a pension fund registered in terms of the Pension Funds Act, 1956 (Act 24 of 1956), excluding a pension fund where the head office of the association which carries on the business of such fund or of every employer who is a party to such fund, is outside the Republic;

(d) a friendly society registered in terms of the Friendly Societies Act, 1956 (Act 25 of 1956);

(e) a society incorporated in the Republic and which is a mutual insurer as defined in the Insurance Act, 1943 (Act 27 of 1943);

(f) any person approved by the registrar as a domestic shareholder;

and “domestic shareholding” has a corresponding meaning;

“dwelling house” includes a unit as defined in section 1 of the Sectional Titles Act, 1971 (Act 66 of 1971), and used or intended to be used for residential purposes;

“equity share capital” and “equity shares” as defined in section 1 (1) of the Companies Act, 1973 (Act 61 of 1973), and “share capital” has a corresponding meaning;

“fixed deposit”, means a deposit which is not a savings deposit, a share deposit or a transmission deposit;

“fixed term mortgage of immovable property” means a mortgage of immovable property other than a reducible mortgage of immovable property;

'n beherende aandeelhouer van daardie persoon of so 'n aandeelhouer van sy beherende maatskappy, 'n sakevenoot van daardie persoon en, in verband met 'n maatskappy, ook 'n direkteur of amptenaar van daardie maatskappy;

"gebied" die gebied Suidwes-Afrika;

"inwoner van die Republiek" iemand wat in die Republiek woonagtig is en wat 'n Suid-Afrikaanse burger is of in besit is van 'n permit vir blywende vestiging in die Republiek, uitgereik kragtens die Wet op Vreemdelinge, 1937 (Wet 1 van 1937);

"korttermynverpligting", met betrekking tot die een of ander datum, 'n verpligting (insluitende 'n lening of 'n deposito van 'n bankinstelling of ander bouvereniging) wat op of voor die dertigste dag vanaf daardie datum betaalbaar is, of wat op daardie datum aan kennis van opseggingsonderworpe is wat dit betaalbaar maak op of voor die dertigste dag vanaf daardie datum en ook transmissiedeposito's;

"Landbank" die Land- en Landboubank van Suid-Afrika;

"langtermynverpligting", met betrekking tot die een of ander datum, 'n verpligting (insluitende 'n lening of 'n deposito van 'n bankinstelling of ander bouvereniging) wat na verloop van meer as ses maande vanaf daardie datum betaalbaar is, of wat op daardie datum aan kennis van opseggingsonderworpe is wat dit betaalbaar maak na meer as ses maande;

"lid" of "lede", met betrekking tot—

(a) 'n bouvereniging wat as 'n maatskappy kragtens die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is, die by die bouvereniging geregistreerde houer van 'n aandeel; en

(b) 'n bouvereniging wat nie onder genoemde Wet geregistreer is nie, die by die bouvereniging geregistreerde houer van 'n bouverenigingaandeel in of 'n aandeel-deposito by die bouvereniging en het "lidmaatskap" 'n ooreenstemmende betekenis;

"likwiede bates" die totaalbedrag aan—

(a) Reserwebanknote, pasmunt en goudmunt;  
(b) kreditsaldo's by die Reserwebank;  
(c) onmiddellik opeisbare deposito's by 'n bankinstelling;

(d) onmiddellik opeisbare lenings aan diskontohuise;  
(e) skatkisbiljette van die Republiek;  
(f) effekte uitgegee kragtens artikel 19 van die Skatkisen Ouditwet, 1975 (Wet 66 van 1975), van die Regering met 'n oorblywende termyn tot die laaste aflosdatum van hoogstens drie jaar;

(g) wissels deur die Landbank uitgereik en voorskotte aan daardie bank wat na keuse van die uitlener in wissels omgesit kan word;

(h) obligasies van die Landbank met 'n oorblywende termyn tot vervaldatum daarvan van hoogstens drie jaar;

(i) aksepte van 'n bankinstelling wat deur die Reserwebank verdiskonterbaar is en wat nie aksepte van 'n filiaal of mede-filiaal van die betrokke bouvereniging is nie;

(j) effekte van die Reserwebank met 'n oorblywende termyn tot die laaste aflosdatum daarvan van hoogstens drie jaar; en

(k) 'n bate wat vir die bouvereniging as 'n likwiede bate gegeld het onmiddellik voor die inwerkingtreding van hierdie Wet en wat nog nie sy eerste aflosdatum na vermelde inwerkingtreding bereik het nie.

"foreign shareholder" means any shareholder other than a domestic shareholder, and "foreign shareholding" has a corresponding meaning;

"Gazette", in relation to a society carrying on business in the Territory, includes the *Official Gazette* of the Territory;

"Land Bank" means the Land and Agricultural Bank of South Africa;

"liquid assets" means the aggregate amount of—

- (a) Reserve Bank notes, subsidiary coin and gold coin;
- (b) credit balances with the Reserve Bank;
- (c) deposits with a banking institution withdrawable on demand;
- (d) loans to discount houses repayable on demand;
- (e) Treasury bills of the Republic;

(f) stocks issued in terms of section 19 of the Exchequer and Audit Act, 1975 (Act 66 of 1975), with a maturity, to the latest redemption date, of not more than three years;

(g) bills issued by the Land Bank and advances to the said bank which, at the option of the lender, are convertible into bills;

(h) debentures of the Land Bank with a maturity of not more than three years;

(i) acceptances of a banking institution which are discountable by the Reserve Bank, not being acceptances of a subsidiary or fellow subsidiary of the building society concerned;

(j) securities of the South African Reserve Bank with a maturity, to the latest redemption date, of not more than three years; and

(k) an asset which qualified as a liquid asset for the building society immediately prior to the commencement of this Act and which has not reached its first redemption date since the said commencement;

"long-term liability", in relation to any date, means a liability (including a loan from or a deposit by a banking institution or another building society), which is payable after the expiration of more than six months as from that date or which on that date is subject to notice which makes it payable after more than six months;

"medium-term liability", in relation to any date, means a liability (including a loan from or a deposit by a banking institution or another building society) which is payable on or after the 31st day as from that date but not later than the day on which a period of six months as from that date expires, or which on that date is subject to notice which makes it payable on or after the 31st day as from that date but not later than the day on which a period of six months as from that date expires, and includes savings deposits;

"member" or "members" in relation to—

(a) a building society which is registered as a company in terms of the Companies Act, 1973 (Act 61 of 1973), means the registered holder of a share with the building society; and

(b) a building society which is not registered in terms of the said Companies Act means the registered holder of a share deposit or a building society share with the building society,

and "membership" has a corresponding meaning;

"Minister" means the Minister of Finance;

“middeltermyverpligting”, met betrekking tot die een of ander datum, ‘n verpligting (insluitende ‘n lening of deposito van ‘n bankinstelling of ander bouvereniging) wat op of na die 31ste dag vanaf daardie datum maar nie later nie as die dag waarop ‘n tydperk van ses maande vanaf daardie datum verstryk, betaalbaar is, of wat op daardie datum aan kennis van opseggings onderworpe is wat dit betaalbaar maak op of na die 31ste dag vanaf daardie datum maar nie later nie as die dag waarop ‘n tydperk van ses maande vanaf daardie datum verstryk, en ook spaardeposito’s;

“Minister” die Minister van Finansies;

“onaangetaste reserwefondse” alle fondse (behalwe ‘n fonds in artikel 56 (1) vermeld, ‘n fonds wat volgens ander wetsbepalings in stand gehou moet word en ‘n surplus voortspruitende uit ‘n herwaardering van ‘n bate) wat uit werklike verdienste, invorderings, premies op aandele, of winste voortspruitende uit die tegeldemaak van kapitaalbates, opgebou is, en as ‘n algemene of besondere reserwe afgesonder is en in die betrokke instelling se finansiële state as sodanige geopenbaar word, en vir die nakoming van verpligtens teenoor die publiek volgens hierdie Wet beskikbaar is;

“persoon” ook ‘n vennootskap;

“Registrateur”, die Registrateur van Bouverenigings wat ingevolge artikel 2 aangestel is;

“regulasie” ‘n regulasie wat ingevolge hierdie Wet uitgevaardig is;

“reg van huurpag” ‘n reg van huurpag op grond wat ingevolge die bepalings van artikel 6A van die Swartes (Stadsgebiede) Konsolidasiewet, 1945, toegeken is;

“Republiek” ook die gebied;

“Reserwebank” die Suid-Afrikaanse Reserwebank soos bedoel in die Wet op die Suid-Afrikaanse Reserwebank, 1944 (Wet 29 van 1944);

“spaardeposito” ‘n kreditsaldo op ‘n spaarrekening;

“spaarrekening” ‘n rekening wat ‘n deposant by ‘n bouvereniging hou en waarop hy nie ‘n groter kreditsaldo in stand mag hou, en waaruit hy nie sonder toestemming van die vereniging ‘n opvraging op korter kennis met betrekking tot die opgevraagde bedrag kan doen, as wat die reëls of statute, na gelang van die geval, van die vereniging bepaal nie;

“spesiale besluit” met betrekking tot enige bouvereniging, ‘n besluit op ‘n algemene vergadering van die bouvereniging geneem op die wyse in artikel 199 van die Maatskappwyet, 1973 (Wet 61 van 1973), bepaal;

“Staatskoerant”, met betrekking tot ‘n vereniging wat in die Gebied sake doen, ook die *Offisiële Koerant van die Gebied*;

“stedelike vaste eiendom”—

(a) ‘n stuk grond wat as ‘n erf, perseel of standplaas in ‘n registrasiekantoor van aktes, met inbegrip van die kantoor van die Registrateur van Randdorp, geregistreer is, en wat geleë is in ‘n dorp binne die betekenis daarvan toegeskryf in artikel een van die Wet op Adverteer langs die Toebou van Paaie, 1940 (Wet 21 van 1940), en ook elke omskreve gedeelte wat nie vir ‘n publieke plek bestem is nie, van ‘n stuk grond wat as so ‘n dorp ingedeel is, ongeag of dit formeel as ‘n dorp erken, goedgekeur of geproklameer is al dan nie;

(b) ‘n kleinhoeve of ander klein stuk grond geleë in die omgewing van so ‘n dorp en in ‘n gebied wat hoofsaaklik ‘n woonbuurt is of daarvoor bestem is;

(c) ‘n huur in *longum tempus* van enige paragraaf (a) of (b) bedoelde grond, mits so ‘n huur nog minstens 20 jaar duur of ‘n skriftelike ooreenkoms vir die omsetting van die titel van die huurder van huurbesit tot eiendomsbesit aangegaan en bedoelde ooreenkoms by die registerende

“mortgage of urban immovable property” includes the cession of a registered lease having not less than 20 years to run, and the cession of any lease or licence, whether or not it is registered, entitling the lessee or licensee and his successors in title to occupy any land situated within the district of Kimberley and belonging to De Beers Consolidated Mines Limited, or its successors in title;

“person” includes any partnership;

“provisional registration” means registration other than final registration;

“reducible mortgage of immovable property” means a mortgage of immovable property the terms of which provide for the redemption of the capital amount advanced by regular equal payments which include any interest due on any amount outstanding;

“Registrar” means the Registrar of Building Societies, appointed in terms of section 2;

“regulation” means a regulation made in terms of this Act;

“Republic” includes the territory;

“Reserve Bank” means the South African Reserve Bank referred to in the South African Reserve Bank Act, 1944 (Act 29 of 1944);

“resident of the Republic” means a person resident in the Republic and who is a South African citizen or is in possession of a permit for permanent residence in the Republic, issued in terms of the Aliens Act, 1937 (Act 1 of 1937);

“right of leasehold” means a right of leasehold, in respect of land, granted in terms of the provisions of section 6A of the Blacks (Urban Areas) Consolidation Act, 1945;

“savings account” means an account which a depositor maintains with a building society and in which he may not keep a larger credit balance and from which he may not without the consent of the society, make a withdrawal at shorter notice, in relation to the amount to be withdrawn, than is determined by the rules or the articles of association, as the case may be, of the society;

“savings deposit” means a credit balance in a savings account;

“share”, as defined in section 1 (1) of the Companies Act, 1973 (Act 61 of 1973);

“share deposit” means an investment with a building society which is not registered as a company in terms of the Companies Act, 1973 (Act 61 of 1973), and in terms of which membership is acquired in the building society by the person in whose name the investment is made;

“short-term liability”, in relation to any date, means a liability (including a loan from or a deposit by a banking institution or another building society) which is payable on or before the thirtieth day as from that date, or which on that date is subject to notice which makes it payable on or before the thirtieth day as from that date, and includes transmission deposits;

“society” means a building society registered or deemed to be registered under this Act;

“special resolution”, in relation to any building society, means a resolution passed at a general meeting of a building society in the manner provided for by section 199 of the Companies Act, 1973 (Act 61 of 1973);

“subsidiary company” means a company in respect of which any other juristic person can directly or indirectly exercise control in the manner contemplated in the definition of “building society controlling company”;

amptenaar ooreenkomstig die "Townships Amendment Act, 1908" (Wet 34 van 1908), van Transvaal, gedeponeer is;

(d) 'n standplaas of 'n huur daarvan wat aan die vereistes van paragraaf (c) voldoen en wat in die kantoor van die Registrateur van Myntitels geregistreer kan word;

(e) grond wat vir die doeleindes van handel met Swartes ingevolge subartikel (4) van artikel 18 van die Bantoetrust en -grond Wet, 1936 (Wet 18 van 1936), of enige ander Wet, toegeken is;

(f) 'n reg van huurpag wat ingevolge artikel 6A (4) van die Swartes (Stadsgebiede) Konsolidasiewet, 1945, geregistreer is, mits daardie reg van huurpag 'n oorblywende termyn van minstens 20 jaar het;

(g) enige ander grond of regte daarop wat die Registrateur in die algemeen of in die besonder goedkeur;

"transmissiedeposo" 'n kreditsaldo in 'n transmissierekening;

"transmissierekening" 'n ander rekening as 'n spaarrekening wat 'n depositant by 'n bouvereniging hou en waaruit die bouvereniging, ooreenkomstig opdrag van die depositant, betalings aan ander persone kan doen en bedrae kan oordra na 'n ander rekening;

"tydelike bouvereniging" 'n bouvereniging wat onmiddellik voor die inwerkingtreding van hierdie Wet as 'n tydelike bouvereniging kragtens die Bouverenigingswet, 1965 (Wet 24 van 1965), geregistreer was;

"vaste deposo" 'n deposo wat nie 'n spaardeposito of 'n aandeeldeposito of 'n belegging in 'n transmissierekening is nie;

"vastetermyn-verband op vaste eiendom" 'n ander verband op vaste eiendom as 'n verminderbare verband op vaste eiendom;

"verband op stedelike vaste eiendom" ook die sessie van 'n geregistreerde huur wat oor minstens 20 jaar verstryk, en die sessie van enige huur of licensie, hetsy geregistreer of nie, wat aan die huurder of licensiehouer en sy regsovolgers die reg verleen om grond geleë binne die distrik Kimberley en behorende aan die De Beers Consolidated Mines Limited, of sy regsovolgers te okkuper;

"vereniging" 'n kragtens hierdie Wet geregistreerde bouvereniging;

"verminderbare verband op vaste eiendom" 'n verband op vaste eiendom waarby beding word dat die kapitaalbedrag wat voorgeskiet is deur die betaling van gereelde gelyke paaiememente tesame met rente betaalbaar op enige uitstaande bedrag gedelg moet word;

"voorlopige registrasie" registrasie wat nie finale registrasie is nie;

"voorskot" ook een of meer voorskotte teen sekuriteit van een eiendom of van twee of meer eiendomme gesamentlik;

"woonhuis" ook 'n eenheid soos omskryf in artikel 1 van die Wet op Deeltitels, 1971 (Wet 66 van 1971), en wat gebruik word of bestem is om gebruik te word vir woondoeleindes.

(2) In die besonder en sonder om afbreuk te doen aan die algemene betekenis van "beheer" in die omskrywing van "bouverenigingbeheermaatskappy" in subartikel (1), word 'n maatskappy geag 'n bouvereniging te beheer indien—

(a) hy tesame met sy geassosieerde regstreeks of onregstreeks (insluitende deur middel van 'n aandeelhouding in 'n maatskappy wat hy of sy geassosieerde kan beheer) aandele of aandeeldeposito's in die bouvereniging hou waarvan die totale nominale waarde meer as 50 persent van die nominale waarde van al die uitgereikte

"terminating building society" a society which immediately prior to the commencement of this Act was registered as a terminating building society in terms of the Building Societies Act, 1965 (Act 24 of 1965);

"territory" means the territory of South-West Africa;

"transmission account" means an account other than a savings account which a depositor maintains with a building society and from which the building society, according to instructions by the depositor, may make payments to other parties and transfer amounts to any other account;

"transmission deposit" means a credit balance in a transmission account;

"unimpaired reserve funds" means all funds (other than a fund mentioned in section 56 (1), any fund required to be maintained in terms of any other law and a surplus resulting from a revaluation of an asset) which have been built up out of actual earnings, recoveries, premiums on shares or profits resulting from the realization of capital assets and have been set aside as a general or special reserve and are disclosed as such in the financial statements of the society concerned, and are available for the purpose of meeting liabilities to the public under this Act;

"urban immovable property" means—

(a) a piece of land registered as an erf, lot or stand in a deeds registry, including the office of the Rand Townships Registrar, which is situated in a township within the meaning assigned thereto in section 1 of the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940), and including every defined portion, not intended to be a public place, of a piece of land laid out as such a township, whether or not it has been formally recognised, approved or proclaimed as a township;

(b) any small holding or other small piece of land situated in the vicinity of such a township and in an area which is or is intended to be primarily a residential area;

(c) any lease *in longum tempus* of any ground mentioned in paragraph (a) or (b), provided such lease has not less than 20 years to run or a written agreement has been entered into for the conversion of the title of the lessee from leasehold to freehold, and such agreement has been lodged with the registering officer in terms of the Townships Amendment Act, 1908 (Act 34 of 1908), of the Transvaal;

(d) any stand or lease thereof complying with the requirements of paragraph (c), which is registrable in the office of the Registrar of Mining Titles;

(e) any land granted under subsection (4) of section 18 of the Development Trust and Land Act, 1936 (Act 18 of 1936), or any other law, for the purpose of trading with Blacks;

(f) any right of leasehold registered in terms of section 6A of the Blacks (Urban Areas) Consolidation Act, 1945, provided such right of leasehold has a remaining period of not less than 20 years;

(g) all such other land or rights thereover approved by the registrar either generally or specifically.

(2) In particular and without prejudice to the generality of the meaning of "control" in the definition of "building society controlling company" in subsection (1), a company shall be deemed to control a building society if—

(a) it, together with its associates, holds shares or share deposits directly or indirectly (including through a shareholding in a company which it, with its associates, can control) in the building society of which the total nominal value represents more than 50 per cent of the nominal

aandele of aandeeldeposito's van die bouvereniging verleenwoordig, behalwe waar in so 'n geval vanweë beperkings op die stemregte verbonde aan aandele of aandeeldeposito's die maatskappy en sy geassosieerde nie beheer oor die bouvereniging kan uitoefen nie; of

(b) hy tesame met sy geassosieerde geregtig is om regstreeks of onregstreeks (insluitende deur middel van 'n aandeelhouing in 'n maatskappy wat hy of sy geassosieerde of hy saam met sy geassosieerde kan beheer) meer as 50 persent van die stemregte verbonde aan uitgereikte aandele van daardie bouvereniging uit te oefen; of

(c) hy tesame met sy geassosieerde geregtig is of die bevoegdheid het om regstreeks of onregstreeks die aanstelling van die meerderheid van die direkteure van daardie bouvereniging te bepaal, met inbegrip van—

(i) die bevoegdheid om sonder die toestemming of instemming van ander lede al of die meerderheid van sodanige direkteure aan te stel of af te dank;

(ii) die bevoegdheid om te verhinder dat iemand sonder hulle toestemming as direkteur aangestel word,  
en indien iemand se aanstelling as direkteur van die bouvereniging noodwendig volg uit sy aanstelling as direkteur van bedoelde maatskappy, word eersgenoemde aanstelling vir die doeleindes van hierdie subartikel geag 'n aanstelling uit hoofde van 'n bevoegdheid van daardie maatskappy te wees; of

(d) hy, of sy geassosieerde of hy saam met sy geassosieerde die reg verkry of geregtig is om kragtens 'n skema of reëling (insluitende 'n aandeelhouing in 'n maatskappy), regstreeks of onregstreeks, beheer oor 'n bouvereniging uit te oefen op 'n ander wyse as waarvoor in paragrawe (a), (b) en (c) voorsien is.

(3) By die toepassing van hierdie Wet moet daar by die berekening van die totaalbedrag van die gestorte kapitaal en onaangestaste reserwefondse van 'n bouvereniging, tot bevrediging van die Registrateur en van die ouditeur van bedoelde bouvereniging vir die volgende items voorsiening gemaak en bedoelde totaalbedrag dienooreenkomsdig verminder word, te wete—

(a) waardevermindering van bates en oninbare of twyfelagtige skulde (wat minstens een maal gedurende elke boekjaar bereken moet word);

(b) bedryfs- en opgehopte verliese, met inbegrip van opgehoopte waardevermindering en oninbare skulde wat nog nie afgeskryf is nie;

(c) oprigtingskoste, wat koste ten opsigte van organisasie of uitbreiding of die aankoop van 'n saak of klandisiewaarde verteenwoordig asook onderskrywingskommissie;

(d) die waarde van bates wat gedeponeer of verpand is om verpligtings wat ingevolge ander wetsbepalings aangegaan is, te verseker, waar al die aldus versekerde verpligtings (met inbegrip van voorwaardelike verpligtings) nie by die berekening ingesluit is nie en waar die uitwerking van so 'n deponeering of verpanding is dat daardie bates nie vir die nakoming van die vereniging se verpligtings teenoor die publiek volgens hierdie Wet, beskikbaar is nie;

(e) die bedrag van sy belegging in die aandele van 'n bouvereniging of 'n bankinstelling of in aandeeldeposito's;

(f) die bedrag (wat minstens een maal gedurende elke boekjaar bereken moet word) waarmee 'n voorskot op sekuriteit van 'n verband oor vaste eiendom die redelike waarde van die eiendom wat as sekuriteit vir sodanige voorskot dien *plus* die waarde van enige ander sekuriteit wat ten opsigte van sodanige voorskot deur die bouvereniging gehou word, oorskry.

(4) Sonder om aan die algemeenheid van die uitdrukking "ongewenste metodes van besigheid doen" en "onregelmatafe of ongewenste prakteke" in hierdie Wet vervat, af te

value of all the issued shares or share deposits of the building society, except where, in such a case, the company and its associates on account of limitations on the voting rights attached to shares or share deposits cannot exercise control over the building society; or

(b) it is entitled to exercise directly or indirectly (including through a shareholding in a company which it or its associates or it with its associates can control) more than 50 per cent of the voting rights in respect of the issued shares of that building society; or

(c) it, together with its associates, is entitled or has the power directly or indirectly to determine the appointment of the majority of the directors of that building society, including—

(i) the power to appoint or remove, without the consent or occurrence of any other person, all or the majority of such directors;

(ii) the power to prevent any member from being appointed a director without its consent,

and if a person's appointment as a director of the building society follows necessarily from his appointment as a director of that company, the first-mentioned appointment shall for the purposes of this subsection be deemed to be an appointment by virtue of a power of that company; or

(d) it, or its associates or it with its associates acquires the right or is entitled in terms of a scheme or arrangement (including a shareholding in a company) to exercise control over a building society, directly or indirectly, in a manner other than that provided for in paragraphs (a), (b) or (c).

(3) In calculating for the purposes of this Act, the aggregate amount of the paid-up capital and unimpaired reserve funds of any building society, provision shall be made to the satisfaction of the Registrar and of the auditor of such society for the following items, and the said aggregate amount reduced accordingly, namely—

(a) depreciation of assets and bad or doubtful debts (to be calculated at least once in each financial year);

(b) operating and accumulated losses, including accumulated depreciation and bad debts not yet written off;

(c) preliminary expenses, representing expenses relating to organisation or extension or the purchase of business or goodwill, and including underwriting commission;

(d) the value of any assets lodged or pledged to secure liabilities incurred under any other law where all the liabilities (including contingent liabilities) so secured are not included in the calculation and where the effect of such lodging or pledging is that such assets are not available for the purpose of meeting the liabilities of the society to the public under this Act;

(e) the amount of its investment in the shares of a banking institution or building society or in share deposits;

(f) the amount (to be calculated at least once in each financial year) by which an advance on the security of a mortgage bond over fixed property exceeds the reasonable value of the property which serves as security for the advance *plus* the value of any other security which is held by the building society in respect of such advance.

(4) Without prejudice to the generality of the terms "undesirable methods of conducting business" and "irregular or undesirable practices" contained in this Act, a building

doen, word 'n bouvereniging by die toepassing van hierdie Wet geag sodanige metodes of praktyke, na gelang van die geval, toe te pas, indien—

(a) die vereniging aandele in 'n moedermaatskappy besit;

(b) enige transaksie van die vereniging nie in die naam van bedoelde vereniging gedoen word nie, of 'n bate van daardie vereniging (uitgesonderd bates wat verhipotekeer is om werklike of potensiële verpligtings te verseker, en die ander bates wat die Registrateur goedkeur) nie in die naam van daardie vereniging gehou word nie;

(c) die rekenings en state van die vereniging enige bedrag wat die koste van organisasie of uitbreiding of die aankoop van 'n saak of verliese (insluitende verliese wat met die verkoop van bates ontstaan) of oninbare skulde verteenwoordig, as 'n bate insluit;

(d) enige uitbreiding van die omvang van sy werkzaamhede deur die opening van takke of agentskappe, nie gestaak word tot tyd en wyl uit winste vir die in paragraaf (c) vermelde items voorsiening gemaak is nie;

(e) dividende uitbetaal word voordat, soos voormeld, ten opsigte van die in paragraaf (c) gemelde items voorsiening gemaak is;

(f) die vereniging regstreeks of onregstreeks onderneem of onderneem het om die terugbetaling te waarborg van 'n lening of 'n deposito wat 'n persoon aan of by 'n ander persoon maak;

(g) 'n vereniging 'n lening maak aan of 'n deposito maak by 'n filiaalmaatskappy of 'n geassosieerde maatskappy wat 'n bouvereniging of bankinstelling is, om die bedoelde filiaalmaatskappy of geassosieerde maatskappy in staat te stel om op 'n bepaalde datum aan die wetlike voorskrifte met betrekking tot likwiede bates te voldoen;

(h) 'n vereniging 'n voorskot maak op sekuriteit van 'n notariële verband;

(i) 'n waardasie van vaste eiendom wat as sekuriteit vir 'n lening dien onderneem word deur 'n persoon wat nie die nodige kundigheid het nie om so 'n waardasie te maak;

(j) 'n vereniging of iemand wat ten behoeve van hom optree die prys waarteen 'n bate gekoop word verhoog om 'n verlies of 'n gedeelte van 'n verlies wat by die verkoop van 'n bate ontstaan het, uit te wis.

(5) Die Registrateur kan 'n bouvereniging skriftelik in kennis stel dat 'n bepaalde praktyk of metode van besigheid doen 'n "onreëlmata of ongewenste praktyk" of 'n "ongewenste metode van besigheid doen" is, en kan by kennisgewing in die *Staatskoerant* 'n bepaalde praktyk of metode van besigheid doen as 'n "onreëlmata of ongewenste praktyk" of 'n "ongewenste metode van besigheid doen" verklaar en 'n bouvereniging wat so 'n praktyk of metode van besigheid doen wat uit hoofde van so 'n kennisgewing vir hom onreëlmata of ongewens is, toepas na verloop van 21 dae vanaf die datum van genoemde skriftelike kennisgewing of die datum van genoemde kennisgewing in die *Staatskoerant*, na gelang van die geval, is aan 'n misdryf skuldig.

### **Registrateur van Bouverenigings**

2. (1) Daar is in Pretoria 'n kantoor wat handel met die registrasie van bouverenigings en met die toepassing van hierdie Wet, en die Minister moet, met inagneming van die wetsbepalings op die staatsdiens, 'n amptenaar aanstel, bekend as die Registrateur van Bouverenigings, wat onder die beheer van die Minister en onderworpe aan 'n appèl na die Minister, die werksaamhede moet verrig wat hierdie Wet aan hom opdra.

(2) Die Minister kan, met inagneming van die wetsbepalings op die staatsdiens, 'n Adjunk-registrateur van Bouverenigings aanstel wat, onderworpe aan die beheer en voor-skrifte van die Registrateur, eniglets kan doen wat die Registrateur wettiglik kan doen.

society shall for the purposes of this Act be deemed to be adopting such methods or practices, as the case may be, if—

(a) shares are held by the society in a parent company;

(b) any transaction of the building society is not entered into in the name of that building society, or an asset of that building society (not being an asset hypothecated to secure actual or potential liabilities, and such other asset as the Registrar may approve) is not held in the name of that building society;

(c) the accounts and statements of the society include as an asset any sum representing expenses of organization or extension or the purchase of business or losses (including a loss incurred on the sale of an asset) or bad debts;

(d) any extension of its field of operations, through the opening of branches or agencies, is not suspended until the items mentioned in paragraph (c) have been provided for out of profits;

(e) dividends are paid before the items mentioned in paragraph (c) have been provided for as aforesaid;

(f) a society directly or indirectly undertakes or undertook to guarantee the repayment of a loan or a deposit which a person makes to or with another person;

(g) a society makes a loan to or a deposit with a subsidiary or an associated company which is a building society or a banking institution to enable the said subsidiary or associated company to comply on a certain date with the provisions of the Act in respect of liquid assets;

(h) an advance is made by a society on security of a notarial bond;

(i) a valuation of fixed property which serves as security for a loan is undertaken by a person who does not have the necessary knowledge to make such a valuation; and

(j) any society or a person acting on its behalf increases the price at which an asset is purchased in order to extinguish a loss or a portion of a loss sustained on the sale of an asset.

(5) The Registrar may in writing notify a building society that a specified practice or method of conducting business is an "irregular or undesirable practice" or an "undesirable method of conducting business" and may by notice in the *Gazette* declare a specified practice or method of conducting business an "irregular or undesirable practice" or an "undesirable method of conducting business" and a building society which employs such a practice or method of conducting business which by virtue of any such notice is irregular or undesirable for him after the expiry of 21 days from the date of the said written notice or the date of the said notice in the *Gazette*, as the case may be, shall be guilty of an offence.

### **Registrar of Building Societies**

2. (1) There shall be an office in Pretoria for the registration of building societies and for the administration of this Act, and the Minister shall, subject to the laws governing the public service, appoint an officer to be styled the Registrar of Building Societies, who shall perform, under the control of and subject to appeal to the Minister, the functions assigned to him by this Act.

(2) The Minister may, subject to the laws governing the public service, appoint a Deputy-Registrar of Building Societies who may, subject to the control and directions of the Registrar, do anything which may lawfully be done by the Registrar.

(3) 'n Appèl na die Minister kragtens hierdie artikel word aangeteken en voortgesit op die wyse en binne die tydperk by regulasie voorgeskryf.

**Slegs geregistreerde bouverenigings mag die bouverenigingsbedryf uitoeft**

3. (1) Niemand mag die bedryf van 'n bouvereniging uitoeft nie, tensy hy as 'n bouvereniging geregistreer of voorlopig geregistreer is.

(2) Niemand mag op enige wyse bekend maak of voorgeset dat hy of enige besigheid of onderneming 'n bouvereniging is wat ingevolge hierdie Wet geregistreer of voorlopig geregistreer is nie, tensy hy of daardie besigheid of onderneming inderdaad aldus geregistreer of voorlopig geregistreer is.

**Registrasie en voorlopige registrasie van bouverenigings**

4. (1) 'n Persoon wat voornemens is om in die Republiek die bedryf van 'n bouvereniging uit te oefen, kan by die Registrateur aansoek doen om toestemming om so 'n bouvereniging te stig, en die Registrateur verleen sodanige toestemming indien die applikant hom oortuig dat die stigting van bedoelde bouvereniging in die openbare belang sal wees.

(2) 'n Applikant aan wie die Registrateur kragtens subartikel (1) toestemming verleen het, kan binne die tydperk wat die Registrateur vasselt in die by regulasie voorgeskrewe vorm by hom aansoek doen om ingevolge hierdie Wet as 'n bouvereniging voorlopig geregistreer te word, en moet saam met sy aansoek die volgende in tweevoud voorlê, te wete—

- (a) sy akte van oprigting en statute;
- (b) 'n aangifte van die adres van sy hoofkantoor;
- (c) 'n aangifte van die naam en adres van sy voorsitter en van iedere direkteur en van sy hoof-uitvoerende beampete; en

(d) volledige besonderhede van die bedryf wat hy voornemens is om uit te oefen en van die wyse waarop hy voornemens is om dit uit te oefen.

(3) Die aansoek en iedere in subartikel (2) vermelde dokument moet deur die voorsitter of die hoof-uitvoerende beampete van die applikant onderteken wees.

(4) Indien die Registrateur oortuig is—

(a) dat die bedryf wat dit die voorneme is om uit te oefen dié is van 'n bouvereniging;

(b) dat die akte van oprigting en statute van die applikant nie met hierdie Wet onbestaanbaar is nie en nie om die een of ander rede ongewens is nie;

(c) dat die applikant nie voornemens is om by die uitoefening van die bedryf ongewenste metodes toe te pas nie; en

(d) dat die applikant oor die nodige fondse beskik om na registrasie aan die finansiële voorskrifte van die Wet te voldoen, moet hy, behoudens die bepalings van subartikels (6) en (7), en teen betaling deur die applikant van 'n registrasiegeld van eenduisend rand, die applikant as 'n bouvereniging voorlopig regstreer.

(5) 'n Bouvereniging wat vir die eerste keer voorlopig geregistreer word, mag nie 'n deposito neem of 'n lening verstrek nie voordat hy aan die Registrateur bewys voorgelê het dat sy gestorte kapitaal en onaangetaste reserwefondse tesame minstens die by artikel 19 voorgeskrewe bedrag beloop.

(6) Die Registrateur regstreer nie 'n applikant voorlopig nie, tensy die applikant 'n publieke maatskappy is wat ingevolge die Maatskappypewet, 1973 (Wet 61 van 1973), met regpersoonlikheid beklee en geregistreer is of geag word met regpersoonlikheid beklee en geregistreer te wees.

(3) Every appeal to the Minister in terms of this section shall be noted and prosecuted in the manner and within the time prescribed by regulation.

**Only registered building societies may carry on building society business**

3. (1) No person shall carry on the business of a building society unless that person has been registered or provisionally registered as a building society.

(2) No person shall give out or pretend in any way that he or any business or undertaking is a building society registered or provisionally registered under this Act, unless he or that business undertaking is in fact so registered or provisionally registered.

**Registration and provisional registration of building societies**

4. (1) Any person who intends to carry on the business of a building society in the Republic, may apply to the Registrar for permission to establish such a building society and the Registrar shall grant such permission if the applicant satisfies him that the establishment of such society will be in the public interest.

(2) An applicant to whom the Registrar has granted permission in terms of subsection (1) may, within the period fixed by the Registrar, apply to him in the form prescribed by regulation to be registered provisionally under this Act as a building society and shall submit in duplicate with its application—

- (a) its memorandum and articles of association;
- (b) a statement of the address of its head office;
- (c) a statement of the name and address of its chairman and of every director and of its chief executive officer; and

(d) full particulars of the business it proposes to carry on and of the manner in which it proposes to carry on such business.

(3) The application and every document mentioned in subsection (2) shall be signed by the chairman or the chief executive officer of the applicant.

(4) If the Registratir is satisfied—

(a) that the business proposed to be carried on is that of a building society;

(b) that the memorandum and articles of association of the applicant are not inconsistent with this Act and are not undesirable for any reason;

(c) that the applicant does not propose to adopt undesirable methods of conducting business; and

(d) that the applicant has the necessary funds to comply after registration with the financial requirements of the Act;

he shall, subject to the provisions of subsections (6) and (7), and after payment by the applicant of a registration fee of R1 000, register the applicant provisionally as a building society.

(5) A building society registered provisionally for the first time shall not accept a deposit, or grant an advance, until it has furnished proof to the Registratir that its paid-up capital and unimpaired reserve funds together amount to not less than the amount prescribed by section 19.

(6) The Registratir shall not register an applicant provisionally unless the applicant is a public company incorporated and registered or deemed to have been incorporated and registered under the Companies Act, 1973 (Act 61 of 1973).

(7) Sonder om afbreuk te doen aan die algemeenheid van die bevoegdhede by hierdie artikel aan die Registrateur verleen, kan hy na goeddunke weier om 'n applikant voorlopig te regstreer indien—

(a) die direkte of indirekte beheer oor sy sake uit hoofde van aandelebesit, stemkrag, bevoegdheid om direkteure aan te stel, of andersins, volgens die Registrateur se oordeel tot nadeel van sy deposante of ander krediteure kan strek; of

(b) geen voldoende voorsiening bestaan vir die bestuur van sy sake deur 'n raad van direkteure met 'n redelike aantal lede of geen bevredigende voorsiening vir 'n kworum van bedoelde raad gemaak word nie; of

(c) die direkteure of voorgestelde hoofamptenare volgens die Registrateur se oordeel nie voldoende ervaring van die bestuur van 'n bouvereniging het nie.

(8) Die voorlopige registrasie van 'n applikant is vir 'n tydperk van 12 maande en is onderworpe aan die voorwaardes en beperkings, wat nie met hierdie Wet onbestaanbaar is nie, wat die Registrateur nodig ag, maar so 'n registrasie kan na goeddunke van die Registrateur van tyd tot tyd onderworpe aan dieselfde of enige ander of verdere voorwaardes en beperkings hernieu word vir tydperke van hoogstens 12 maande op 'n keer: Met dien verstande dat geen bouvereniging vir 'n totale tydperk van langer as vyf jaar voorlopig geregistreer mag bly nie.

(9) Indien 'n voorlopig geregistreerde bouvereniging te eniger tyd terwyl hy voorlopig geregistreer is ten volle vir registrasie bevoeg word op grond daarvan dat hy aan enige ingevolge subartikel (8) opgelegde vereistes voldoen het, moet die Registrateur, teen betaling van 'n registrasiegeld van R1 000, daardie bouvereniging regstreer.

(10) Indien 'n vereniging se voorlopige registrasiestryk en nie hernieu of in registrasie omgesit word nie, moet hy—

(a) binne 'n deur die Registrateur bepaalde tydperk al die deposito's terugbetaal wat hy ontvang het; en

(b) binne die tydperk en op die wyse wat die Registrateur vereis, sy naam en sy akte van oprigting en statute verander.

(11) Die Registrateur reik ten opsigte van elke registrasie of voorlopige registrasie 'n sertifikaat in die by regulasie voorgeskrewe vorm uit.

#### **Voortsetting van registrasie van bestaande bouverenigings**

5. (1) 'n Bouvereniging wat onmiddellik voor die inwerkintreding van hierdie Wet voorlopig of finaal ingevolge die Bouverenigingswet, 1965 (Wet 24 van 1965), as 'n permanente bouvereniging geregistreer was of geag word geregistreer te wees—

(a) word geag behoorlik ingevolge artikel 4 as 'n bouvereniging voorlopig of finaal geregistreer te wees; en

(b) is 'n regspersoon wat bevoeg is om in sy geregistreerde naam as eiser of verweerde in rechte op te tree, om eiendom te verkry, te besit, te huur, te verhuur en te vervreem, en om onderworpe aan die bepalings van hierdie Wet alle dinge te doen wat vir die uitvoering van sy bevoegdhede of die uitvoering van sy werksaamhede ingevolge sy statute nodig is of daarvan in verband staan.

(2) Die bepalings van subartikel (1) is *mutatis mutandis* van toepassing op 'n tydelike bouvereniging wat onmiddellik voor die inwerkintreding van hierdie Wet geregistreer was: Met dien verstande dat—

(a) so 'n bouvereniging na inwerkintreding van hierdie Wet nie 'n bykomende afdeling stig nie of die tydperk waarvoor die vereniging gestig is, verleng nie; en

(7) Without prejudice to the generality of the powers conferred upon the Registrar by this section, he may in his discretion refuse to register an applicant provisionally if—

(a) the direct or indirect control over its affairs by virtue of shareholding, voting powers, power to appoint directors, or otherwise, may in the opinion of the Registrar react to the detriment of its depositors or other creditors; or

(b) adequate provision does not exist for the conduct of its affairs by a board of directors with a reasonable number of members, or satisfactory provision is not made for a quorum of such board; or

(c) the directors or proposed chief officers, in the opinion of the Registrar, have not had sufficient experience of the management of a building society.

(8) The provisional registration of an applicant shall be for a period of 12 months and shall be subject to such conditions and limitations not inconsistent with this Act as the Registrar may consider necessary, but such registration may, in the discretion of the Registrar, from time to time be renewed, subject to the same or any other or further conditions and limitations, for periods not exceeding 12 months at a time: Provided no building society shall remain provisionally registered for an aggregate period exceeding five years.

(9) If a provisionally registered society becomes fully qualified for registration at any time while it is provisionally registered, by reason of the fact that it has complied with any requirements imposed under subsection (8), the Registrar shall, upon payment of a registration fee of R1 000, register such institution as a building society.

(10) If the provisional registration of a society expires and is not renewed or converted into registration, it shall—

(a) within a period determined by the Registrar repay all the deposits which it holds; and

(b) change its name and its memorandum and articles of association within the period and in the manner required by the Registrar.

(11) The Registrar shall issue in respect of every registration or provisional registration a certificate in a form prescribed by regulation.

#### **Continuation of registration of existing societies**

5. (1) A building society which immediately prior to the commencement of this Act was registered or provisionally registered as a permanent building society in terms of the Building Societies Act, 1965 (Act 24 of 1965), or was deemed to be so registered—

(a) shall be deemed to have been duly registered or provisionally registered as a building society in terms of section 4;

(b) shall be a body corporate capable of suing and being sued in its registered name, of acquiring, owning, hiring, letting and alienating property and subject to the provisions of this Act of doing all such things as may be necessary for or incidental to the exercise of its powers or the performance of its functions in terms of its rules.

(2) The provisions of subsection (1) shall apply *mutatis mutandis* to terminating building societies which were registered immediately prior to the commencement of this Act: Provided that—

(a) such a building society shall not form a new section or extend the period for which the society has been formed after commencement of this Act; or

(b) so 'n bouvereniging se registrasie ingevolge hierdie Wet verval—

(i) by beëindiging van al die afdelings wat by inwerkingtreding van hierdie Wet bestaan het; of

(ii) by verstryking van die tydperk deur sy statute vir die duur van die vereniging bepaal,

tensy so 'n bouvereniging die Registrateur oortuig dat hy aan die voorskrifte van artikel 4 (4) (d) kan voldoen en aansoek om registrasie as 'n permanente bouvereniging voor die beëindiging van die laaste afdeling of verstryking van die tydperk in paragraaf (b) (ii) bedoel, doen.

(3) (a) Alle ooreenkoms, aanstellings, transaksies en stukke gemaak, aangegaan, opgestel of verly deur, met of ten gunste van 'n bouvereniging wat onmiddellik voor die inwerkingtreding van hierdie Wet geregistreer of voorlopig geregistreer was, bly by inwerkingtreding van hierdie Wet ten volle van krag en word vir alle doeleindes uitgelê asof dit deur met of ten gunste van die bouvereniging wat ingevolge subartikels (1) en (2) geag geregistreer of voorlopig geregistreer te wees, gemaak, aangegaan, opgestel of verly was;

(b) Enige verbandakte, verpanding, waarborg of ander dokument vir die dekking van bestaande of toekomstige voorskotte faciliteite of dienste gegee aan, deur of ten gunste van 'n bouvereniging wat onmiddellik voor die inwerkingtreding van hierdie Wet geregistreer of voorlopig geregistreer was en wat onmiddellik voor die inwerkingtreding van hierdie Wet van krag was word by inwerkingtreding van hierdie Wet uitgelê as 'n verbandakte, verpanding, waarborg of dokument gegee aan, deur of ten gunste van die bouvereniging wat ingevolge subartikel (1) geag geregistreer of voorlopig geregistreer te wees; en

(c) 'n Regsgeding wat deur of teen 'n bouvereniging voor die inwerkingtreding van hierdie Wet ingestel mag gewees het, word nie deur die inwerkingtreding van hierdie Wet ongeldig nie, en so 'n regsgeding kan by bedoelde inwerkingtreding deur of teen die vereniging wat ingevolge subartikel (1) of (2) geag geregistreer of voorlopig geregistreer te wees, voortgesit word.

#### *Naam van bouvereniging en verandering van naam*

6. (1) 'n Bouvereniging word nie voorlopig geregistreer met 'n naam—

(a) waaronder 'n ander bouvereniging reeds geregistreer of voorlopig geregistreer is nie; of

(b) wat soseer met dié van 'n reeds geregistreerde of voorlopig geregistreerde finansiële instelling ooreenkoms dat die een moontlik met die ander verwant kan word nie; of

(c) wat nie die woord "bouvereniging" bevat nie; of

(d) wat na die oordeel van die Registrateur die publiek moontlik sal kan mislei nie.

(2) 'n Bouvereniging mag nie 'n ander naam besig of op homself toepas nie as die naam waaronder hy geregistreer of voorlopig geregistreer is of 'n letterlike vertaling daarvan wat die Registrateur goedgekeur het, en mag ook nie 'n verkorting van daardie naam besig of op homself toepas tensy die Registrateur dit goedgekeur het nie: Met dien verstande dat 'n bouvereniging met die toestemming van die Registrateur tesame met sy geregistreerde naam ook die naam van 'n bouvereniging wat met hom saamgesmelt is of wat deur hom geabsorbeer is of, in die geval van 'n verandering van naam, die naam waaronder hy voorheen bekend gestaan het, kan besig of op homself kan toepas.

(b) the registration of such a building society in terms of this Act shall terminate—

(i) when all the sections which existed at the commencement of this Act have been terminated; or

(ii) on expiry of the period fixed by its rules for the duration of the society,

unless such a building society satisfies the Registrar that it can comply with the requirements of section 4 (4) (d) and an application for registration as a permanent building society is made before termination of the last section or expiry of the period referred to in paragraph (b) (ii).

(3) (a) All agreements, appointments, transactions and documents, entered into, drawn or executed by, with or in favour of a building society which was registered or provisionally registered immediately prior to the commencement of this Act, shall remain of full force and effect on commencement of this Act and shall be construed for all purposes as if they had been made, entered into, drawn or executed by, with or in favour of the building society which is deemed to be registered or provisionally registered in terms of subsections (1) and (2);

(b) any bond, pledge, guarantee or other instrument to secure existing or future advances, facilities or services given to, by or in favour of a society which was registered or provisionally registered immediately prior to the commencement of this Act and which was in force immediately prior to the commencement of this Act, shall be construed at the commencement of this Act as a bond, pledge, guarantee or instrument given to or in favour of the building society which is deemed to be registered or provisionally registered in terms of subsection (1); and

(c) any legal action instituted by or against a building society immediately prior to the commencement of this Act, shall not be invalidated by the commencement of this Act and such legal action may be continued at the commencement of this Act by or against a society which is deemed to be registered or provisionally registered in terms of subsections (1) or (2).

#### *Name of building society and change of name*

6. (1) A building society shall not be registered provisionally under a name—

(a) under which a building society has already been registered or provisionally registered; or

(b) which so closely resembles the name of a financial institution already registered or provisionally registered that the one is likely to be mistaken for the other;

(c) which does not contain the word "building society"; or

(d) which in the opinion of the Registrar is likely to mislead the public.

(2) A building society shall not use or refer to itself by a name other than the name under which it is registered or provisionally registered or a literal translation thereof which has been approved by the Registrar, or use or refer to itself by an abbreviation of that name unless the Registrar has approved it: Provided that with the consent of the Registrar a building society may, in conjunction with its registered name, use or refer to itself by the name of a building society with which it has amalgamated or which it has absorbed or, in the case of a change of name, the name by which it was previously known.

(3) (a) 'n Bouvereniging verander nie sy naam sonder die skriftelike toestemming van die Registrateur nie, en die bepalings van subartikel (1) is *mutatis mutandis* van toepassing met betrekking tot 'n verandering van 'n bouvereniging se naam.

(b) Die bepalings van hierdie subartikel word nie uitgelê asof dit die verandering van 'n naam sonder voldoening aan die vereistes van enige ander wetsbepaling met betrekking tot so 'n naamsverandering veroorloof nie.

(4) Wanneer 'n bouvereniging sy naam verander het, verander die Registrateur op versoek van die bouvereniging en teen betaling deur die bouvereniging van 'n bedrag van R100 die naam van die instelling in sy register van bouverenigings en reik hy 'n sertifikaat van die verandering in die regulasie voorgeskrewe vorm aan die bouvereniging uit.

#### **Registrateur kan inligting van ongeregistreerde persone verlang**

7. As die Registrateur rede het om te vermoed dat iemand wat nie ingevoige hierdie Wet as 'n bouvereniging geregistreer of voorlopig geregistreer is nie, die bedryf van 'n bouvereniging uitoefen kan hy—

(a) daardie persoon skriftelik aansê om binne 'n in die aanseggings vermelde tydperk of binne die verdere tydperk wat die Registrateur toestaan, enige dokument of inligting aangaande sy sake, waaroor hy beskik, aan hom voor te lê; en

(b) kragtens die bevoegdhede hom verleen by die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet 38 van 1984), die sake van daardie persoon inspekteer.

#### **Terugbetaling van geld geneem deur 'n ongeregistreerde persoon**

8. (1) 'n Persoon wat geld hou wat hy verkry het deur die bedryf van 'n bouvereniging uit te oefen sonder dat hy volgens voorskrif van hierdie Wet of 'n wetsbepaling wat deur hierdie Wet herroep is, geregistreer of voorlopig geregisteer is, moet dié geld ooreenkomsdig die Registrateur se voorskrifte terugbetaal.

(2) Die bepalings van subartikel (1) vrywaar geen persoon teen strafregtelike aanspreeklikheid wat ontstaan uit die oortreding van die bepalings van hierdie Wet of 'n wet wat deur hierdie Wet herroep is nie.

#### **Verpligte intrekking van registrasie**

9. (1) As iemand wetens 'n vase verklaring doen in verband met 'n aansoek om 'n bouvereniging te stig of in verband met 'n aansoek om registrasie of voorlopige registrasie of in verband met die hernuwing van 'n voorlopige registrasie of in antwoord op 'n aanseggings kragtens artikel 7 word hy geag skuldig te wees aan bedrog of falsiteit.

(2) As die Registrateur 'n bouvereniging op grond van enige vase of onjuiste verklaring geregistreer het, of as 'n bouvereniging of iemand wat die bedryf van 'n bouvereniging uitoefen, aan 'n misdaad ingevoige hierdie Wet of 'n wetsbepaling wat deur hierdie Wet herroep is, skuldig bevind is, of as 'n bouvereniging nie behoorlik die bedryf van 'n bouvereniging uitoefen nie, of as 'n bouvereniging 'n wanvoorstelling maak insake die faciliteite wat hy aan sy lede of aan die publiek aanbied, of as hy voortgaan met 'n praktyk of metode van besigheid doen wat as 'n onreëlmatige of ongewenste praktyk of metode van besigheid doen kragtens hierdie Wet verlaat is, kan die Registrateur by die bevoegde afdeling van die Hooggereghof van Suid-Afrika aansoek doen om 'n bevel tot intrekking of opskorting van die registrasie van die betrokke instelling, en gemelde afdeling kan daarna die aansoek oorweeg en die bevel daaromtrent uitvaardig wat hy wenslik ag: Met dien verstande dat as iemand aan bedrog of falsiteit ingevoige subartikel (1) skuldig bevind is omdat hy 'n vase verklaring gedoen het

(3) (a) A building society shall not change its name without the written consent of the Registrar, and the provisions of subsection (1) shall apply *mutatis mutandis* with reference to a change of the name of a building society.

(b) The provisions of this subsection shall not be construed as authorising the change of any name without compliance with the requirements of any other law relating to such a change of name.

(4) When a building society has changed its name, the Registrar shall, at the request of the society and on payment by it of an amount of R100, change the name of the society in his register of building societies and issue to the society a certificate of such change in the form prescribed by regulation.

#### **Registrar may require unregistered persons to furnish information**

7. If the Registrar has reason to suspect that any person who is not registered or provisionally registered under this Act as a building society is carrying on the business of a building society, he may—

(a) direct that person, by notice in writing, to submit to him within a period stated in such notice, or within such further period as the Registrar may allow, any document or information concerning his affairs, which is available to him; and

(b) inspect the affairs of the person in terms of the powers vested in him by the Inspection of Financial Institutions Act, 1984 (Act 38 of 1984).

#### **Repayment of deposits accepted by unregistered person**

8. (1) A person holding money which he has obtained by carrying on the business of a building society without being registered or provisionally registered as required by this Act or any law repealed by this Act, shall repay such money in accordance with the Registrar's directions.

(2) Nothing in subsection (1) shall relieve any person from liability to criminal proceedings arising out of any contravention of the provisions of this Act or any law repealed by this Act.

#### **Compulsory cancellation of registration**

9. (1) If any person makes a statement which is false and which he knows to be false, in connection with an application for permission to establish a building society or in connection with an application for registration or provisional registration or in connection with the renewal of a provisional registration or in reply to a direction in terms of section 7 he shall be deemed to be guilty of fraud or *falsitas*.

(2) If the Registratir has registered a building society on the strength of any false or incorrect statement, or if a building society or any person carrying on the business of a building society has been convicted of any offence under this Act or any law repealed by this Act, or if any building society does not carry on satisfactorily the business of a building society or if any building society misrepresents the facilities which it offers to its members or to the public, or if any building society continues with a practice or method of doing business which has been declared an irregular or undesirable practice or method of doing business in terms of this Act, the Registratir may apply to the competent division of the Supreme Court of South Africa for an order cancelling or suspending the registration of the said society and the said division may thereupon entertain the application and make such order thereon as it deems desirable to make: Provided that if any person has been convicted of fraud or *falsitas* under subsection (1) because he made a

op grond waarvan die bouvereniging, soos vermeld, geregister is, die Registrateur self, met die goedkeuring van die Minister, die registrasie kan intrek of dit kan opskort op die voorwaardes wat hy na goeddunke ople.

(3) (a) Wanneer 'n bouvereniging volgens die oordeel van die Registrateur nie meer die bedryf van 'n bouvereniging uitoefen nie, sê die Registrateur daardie instelling by skriftelike kennisgewing aan om binne 'n in die kennisgewing vermelde tydperk, wat nie minder as 30 dae mag wees nie, redes aan te voer waarom sy registrasie of voorlopige registrasie nie ingetrek moet word nie.

(b) Indien die bouvereniging nie binne die in paragraaf (a) vermelde tydperk tot bevrediging van die Registrateur redes aanvoer wat die behoud van die registrasie regverdig nie, moet hy die bouvereniging se registrasie intrek.

(c) 'n Intrekking kragtens paragraaf (b) tree in werking een maand na die datum waarop die Registrateur die betrokke bouvereniging skriftelik daarvan kennis gegee het, tensy die bouvereniging binne dié tydperk kragtens artikel twee na die Minister appelleer teen die Registrateur se besluit, en in so 'n geval is die intrekking nietig tensy en totdat dit deur die Minister bekratig word.

(d) Die Minister kan na oorweging van 'n appèl ingevolge paragraaf (c) die Registrateur se besluit bekratig of dit tersyde stel en in die plek daarvan enige beslissing gee wat die Registrateur na sy oordeel moes gegee het, en so 'n beslissing is afdoende en word in alle opsigte uitgevoer asof dit die Registrateur se besluit is.

(4) Tensy die hof anders beveel, word die koste van die Registrateur by of in verband met 'n aansoek ingevolge subartikel (2) betaal deur die bouvereniging en is dit 'n preferente vordering teen die bates van die vereniging.

(5) Die Registrateur laat so spoedig doenlik nadat die registrasie van 'n vereniging kragtens hierdie artikel ingetrek is, 'n kennisgewing te dien effekte publiseer in die *Staatskoerant* en in een Afrikaanse en een Engelse nuusblad in omloop in die distrik waarin die hoofkantoor van die vereniging geleë is.

(6) Die intrekking van die registrasie van 'n vereniging doen geen afbreuk aan enige reg wat iemand voor die publikasie in die *Staatskoerant* van die in subartikel (5) bedoelde kennisgewing teen die bouvereniging verkry het nie, en so 'n reg kan uitgeoefen word asof die intrekking nie plaasvind het nie.

#### **Vereistes waaraan statute en wysigings daarvan moet voldoen**

10. (1) Die statute van 'n vereniging moet die volgende vermeld, te wete—

(a) die naam van die vereniging en waar sy hoofkantoor geleë is;

(b) die hoofdoelstelling van die vereniging met beskrywing van sy hoofbesigheid;

(c) besonderhede van die vereniging se doelstellings aanvullend tot die hoofdoelstelling;

(d) die gewone bevoegdhede uiteengesit in Bylae 2 by die Maatskappywet, 1973 (Wet 61 van 1973), wat nie met die bepalings van hierdie Wet onbestaanbaar is nie;

(e) die wyse waarop die fondse van die vereniging verkry moet word, die doeleindeste waarvoor dit aangewend moet word en die wyse waarop surplusfondse belê moet word;

(f) die wyse waarop voorskotte teen sekerheid van verband op vaste eiendom verleen en terugbetaal moet word;

false statement on the strength whereof the building society was registered as aforesaid, the Registrar may himself, with the consent of the Minister, cancel the registration or suspend it on such conditions as he may deem fit to impose.

(3) (a) When a building society, in the opinion of the Registrar, has ceased to carry on the business of a building society the Registrar shall by notice in writing call upon the society to show cause, within a period of not less than 30 days stated in the notice, why its registration or provisional registration shall not be cancelled.

(b) If the building society does not, within the period mentioned in paragraph (a), show cause to the satisfaction of the Registrar, which justifies the continuation of the registration, he shall cancel the registration of the society.

(c) A cancellation in terms of paragraph (b) shall take effect one month after the date on which the Registrar has given written notice thereof to the society concerned, unless within that period the society appeals to the Minister in terms of section 2 against the Registrar's decision, in which case the cancellation shall have no force or effect unless and until it has been confirmed by the Minister.

(d) The Minister may after considering any appeal under paragraph (c) confirm the decision of the Registrar or set it aside and substitute any decision which in his opinion the Registrar ought to have given, and any such decision shall be final and shall be carried out in all respects as if it were the Registrar's decision.

(4) Unless the court otherwise orders, the costs of the registrar in or in connection with an application in terms of subsection (2) shall be paid by the society and shall be a first charge upon the assets of the society.

(5) The registrar shall as soon as practicable after the cancellation of the registration of any society under this section, cause notice to that effect to be published in the *Gazette*, and in one Afrikaans and one English newspaper circulating in the district in which the head office of the society is situated.

(6) The cancellation of the registration of a society shall be without prejudice to any right acquired by any person against the society before the publication in the *Gazette* of the notice referred to in subsection (5), and any such right may be enforced as if such cancellation had not taken place.

#### **Requirements for rules and amendments thereto**

10. (1) The rules of a society shall set forth—

(a) the name of the society and the situation of its head office;

(b) the main object of the society with a description of its main business;

(c) particulars of the objects of the society ancillary to the main object;

(d) the common powers set out in Schedule 2 to the Companies Act, 1973 (Act 61 of 1973), which are not inconsistent with the provisions of this Act;

(e) the manner in which the funds of the society are to be raised, the purposes to which they are to be applied and the manner in which surplus funds are to be invested;

(f) the manner in which advances upon the security of the mortgage of immovable property are to be made and repaid;

(g) of die vereniging voornemens is om deposito's te ontvang en geld teleen behalwe by wyse van deposito, en, indien deposito's aangeneem en geld geleent gaan word, die voorwaardes van aanname en terugbetaling;

(h) die wyse waarop jaarliks of meer dikwels 'n oudit van die vereniging se sake moet geskied, insluitende 'n inspeksie deur die ouditeure van die verbande en ander sekuriteite van die vereniging;

(i) die wyse waarop winste of verliese vasgesel en daarnee gehandel of daarvoor voorsiening gemaak moet word;

(j) die wyse van verkiesing, aanstelling, ontslag en vasstelling van die besoldiging van direkteure, en hulle kwalifikasies, bevoegdhede en pligte;

(k) die wyse waarop die jaarlikse algemene vergadering en buitengewone algemene vergaderings van lede belé moet word, die kworum wat vir die afhandeling van werksaamhede op sodanige vergaderings nodig is en die wyse waarop aldaar gestem word;

(l) die wyse waarop geskille tussen die vereniging en enige van sy lede besleg moet word;

(m) hoe kontrakte of ander stukke wat die vereniging bind, verly moet word;

(n) hoe die verbande, titelbewyse en ander sekuriteite wat aan die vereniging behoort of deur hom gehou word, bewaar moet word;

(o) die wyse waarop die statute van die vereniging gewysig en herroep en aanvullende statute gemaak kan word;

(p) behoudens die bepalings van hierdie Wet, die wyse waarop die vereniging ten einde loop of gelikwider moet word;

(q) die wyse waarop enige samesmelting of oordrag van bates en laste na of van 'n ander vereniging teweeggebring moet word;

(r) die vereistes vir lidmaatskap van die vereniging en besonderhede van beperkings op stemreg van lede en aandeelhouding, waar toepaslik; en

(s) die ander aangeleenthede wat die Registrateur goedkeur.

(2) Die statute van 'n permanente bouvereniging wat kragtens artikel 5 regpersoonlikheid verkry het moet bewens die bepalings van subartikel (1) ook vermeld—

(a) dat 'n lid by 'n stemming deur lede net een stem het en dat 'n lid en sy geassosieerde by 'n stemming nie meer as 10 persent van die totale stemme van al die lede van die bouvereniging het nie;

(b) dat die aanspreklikheid van 'n lid beperk is tot die bedrag van die aandeel-deposito wat hy by die bouvereniging hou; en

(c) wat die minimum bedrag is wat 'n lid in sy aandeeldepositorekening by die vereniging in stand moet hou.

**Oordrag van besigheid van 'n bouvereniging wat regpersoonlikheid kragtens artikel 5 verkry het na 'n maatskappy wat kragtens die Maatskappywet, No. 61 van 1973, geregistreer is**

11. (1) Met die toestemming van die Registrateur en goedkeuring van 'n spesiale besluit kan die lede van 'n permanente bouvereniging bedoel in artikel 5 'n publieke maatskappy met ekwiteitsaandelekapitaal kragtens die Maatskappywet, 1973 (Wet 61 van 1973), registreer en al die bouvereniging se bates en laste aan sodanige maatskappy oordra nadat die maatskappy as 'n bouvereniging kragtens hierdie Wet geregistreer is.

(g) whether the society intends to accept deposits and to borrow money other than by way of deposit, and, if deposits are to be accepted and money to be borrowed, the conditions of acceptance and repayment;

(h) the manner of making an annual or more frequent audit of the accounts including an inspection by the auditors of the mortgage bonds and other securities belonging to the society;

(i) the manner in which profits or losses are to be ascertained and dealt with or provided for;

(j) the manner of electing, appointing, removing and fixing the remuneration of directors, and their qualifications, powers and duties;

(k) the manner of calling the annual general meeting and special general meetings of members, the quorum necessary for the transaction of business at such meetings, and the manner of voting thereat;

(l) the manner in which disputes between the society and any of its members shall be settled;

(m) how contracts or other documents binding the society shall be executed;

(n) how custody shall be kept of the mortgage bonds, title deeds and other securities belonging to or held by the society;

(o) the manner in which the rules of the society may be amended, repealed and supplementary rules be made;

(p) subject to the provisions of this Act, the manner in which the society shall be terminated or wound up;

(q) the manner in which any amalgamation or transfer of assets and liabilities to or from another society shall be effected;

(r) the requirements for membership of the society and particulars of restrictions on voting rights of members and shareholding where applicable;

(s) such other matters as the Registrar may approve.

(2) The rules of a permanent building society incorporated in terms of section 5, shall, in addition to the provisions of subsection (1) also state—

(a) that a member shall have only one vote at a ballot of members and that a member and his associates shall have not more than 10 per cent of the total votes of all members of a building society at a ballot;

(b) that the liability of a member is limited to the amount of the share-deposit which he holds with the building society; and

(c) the minimum amount which a member shall maintain in his share-deposit account with the society.

**Transfer of business of a building society incorporated in terms of section 5 to a company registered in terms of the Companies Act, No. 61 of 1973**

11. (1) Members of a permanent building society referred to in section 5 may, with the consent of the Registrar and approval of a special resolution, register a public company with equity share capital in terms of the Companies Act, 1973 (Act 61 of 1973), and transfer all the assets and liabilities of the building society to such company after the company has been registered as a building society in terms of this Act.

(2) Wanneer lede van 'n bouvereniging 'n spesiale besluit ingevolge subartikel (1) neem moet elke houer van 'n aandeel-deposito en 'n bouverenigingaandeel op die datum wat die spesiale besluit geneem word die reg verleen word om, behoudens die bepalings van artikel 39, vir die getal aandele in die maatskappy in te skryf wat in verhouding tot die gemagtigde aandelekapitaal in dieselfde verhouding staan as wat sy totale aandeel-deposito of belegging in bouverenigingaandele by die bouvereniging tot die totale bedrag van die aandeel-deposito plus beleggings in bouverenigingaandele van al die lede van die bouvereniging op die datum van sodanige besluit is: Met dien verstande dat die maatskappy se akte van oprigting kan bepaal dat 'n lid vir ten minste 100 aandele aansoek moet doen.

(3) Aandele in die maatskappy in subartikel (1) bedoel wat nie deur lede van die bouvereniging opgeneem word nie, kan deur persone wat nie lede van die bouvereniging is nie opgeneem word.

#### **Reg sposisie van skuldeisers van 'n bouvereniging wat in 'n maatskappy omskep word**

12. Die bepalings van artikel 40 is *mutatis mutandis* van toepassing op die oordrag van 'n bouvereniging se bates en laste ingevolge artikel 11 na 'n maatskappy wat kragtens die Maatskappwyet, 1973 (Wet 61 van 1973), geregistreer is en kragtens hierdie Wet as 'n bouvereniging geregistreer is.

#### **Vrywillige intrekking van registrasie**

13. Op aansoek van of met die skriflike toestemming van 'n bouvereniging kan die Registrateur sy registrasie of voorlopige registrasie ingevolge hierdie Wet intrek.

#### **Publikasie van die feit van registrasie en van naam van bouvereniging**

14. (1) Na die registrasie of voorlopige registrasie van 'n bouvereniging of na die intrekking van so 'n registrasie of na verstryking van 'n voorlopige registrasie of na 'n verandering van die naam van 'n bouvereniging moet die Registrateur 'n kennisgewing daarvan in die *Staatskoerant* laat publiseer.

(2) Iedere bouvereniging moet—

(a) op 'n ooglopende plek en in maklik leesbare letters by die ingang van iedere plek in die Republiek waar die bouvereniging as sodanig sy bedryf uitoefen;

(b) in maklik leesbare letters op elke brief, staat, kennisgewing of advertensie, wat uitgegee word of aan enige lid van die publiek deur of namens die bouvereniging uitgereik word,

die naam van die bouvereniging vertoon.

#### **Registrasie van bouverenigingbeheermaatskappy**

15. (1) Niemand mag regstreeks of deur middel van 'n reëling, vennootskap, maatskappy of op enige ander wyse sonder die voorafgaande skriflike goedkeuring van die Registrateur beheer oor 'n bouvereniging verkry of uitoefen nie en die Registrateur verleen nie sy goedkeuring nie tensy so iemand as 'n bouverenigingbeheermaatskappy geregistreer is.

(2) 'n Persoon wat beoog om beheer oor 'n bouvereniging te verkry, moet op die wyse by regulasie voorgeskryf by die Registrateur aansoek doen om as 'n bouverenigingbeheermaatskappy geregistreer te word en saam met sy aansoek die inligting en stukke voorlê wat by regulasie voorgeskryf is.

(3) Indien die Registrateur, by oorweging van 'n aansoek om registrasie as 'n bouverenigingbeheermaatskappy, oortuig is—

(a) dat die aansoeker beheer het of in staat is om beheer uit te oefen of te verkry oor 'n bepaalde bouvereniging;

(2) When a special resolution is passed by members in terms of subsection (1) every holder of a share-deposit or a building society share on the date on which such resolution is passed, shall be granted the right, subject to the provisions of section 39, to subscribe for the number of shares in the company which in relation to the authorised share capital, has the same proportion as the sum held by him in share-deposits or building society shares has in relation to the aggregate amount of the total share-deposits and building society shares of all the members of the building society on the date of such resolution: Provided that the company's memorandum may stipulate that a member has to apply for at least 100 shares.

(3) Shares in the company referred to in subsection (1) which are not subscribed for by members of the building society may be subscribed for by persons who are not members of the society.

#### **Legal position of creditors of a building society which is converted into a company**

12. The provisions of section 40 apply *mutatis mutandis* to the transfer of a building society's assets and liabilities in terms of section 11 to a company registered under the Companies Act, 1973 (Act 61 of 1973), and as a building society under this Act.

#### **Voluntary cancellation of registration**

13. Upon the application or with the consent in writing of a building society the Registrar may cancel its registration or provisional registration.

#### **Publication of fact of registration and of name of building society**

14. (1) Upon the registration or provisional registration of any building society or upon the cancellation of any such registration, or upon the expiry of a provisional registration or upon the change of the name of a society, the Registrar shall cause to be published a notice thereof in the *Gazette*.

(2) Every building society shall display—

(a) conspicuously and in easily legible letters at the entrance to every place in the Republic where the building society carries on any business as such;

(b) in easily legible letters on every letter, statement, notice or advertisement published or issued to any member of the public by or on behalf of the building society,

the name of the society.

#### **Registration of building society controlling company**

15. (1) No person shall without the prior written approval of the Registrar acquire or exercise control over a building society directly or by means of an arrangement, partnership, company or by any other means and the registrar does not grant such approval to a person unless he is registered as a building society controlling company.

(2) A person who intends to acquire control over a building society must apply to the Registrar for registration as a building society controlling company in the manner prescribed by regulation and submit with his application the information and documents prescribed by regulation.

(3) If the Registrar, when considering an application for the registration as a building society controlling company, is satisfied—

(a) that the applicant has control of or is in a position to exercise or acquire control over a building society;

(b) dat die betrokke bouvereniging en die aansoeker kragtens die Maatskappywet, 1973 (Wet 61 van 1973), as 'n publieke maatskappy met aandelekapitaal geregistreer is;

(c) dat die akte van oprigting en statute van die aansoeker nie met hierdie Wet onbestaanbaar is nie en nie om die een of ander rede ongewens is nie;

(d) dat die aansoeker nie van voorneme is om by die dryf van sy besigheid ongewenste metodes en prakteke toe te pas nie;

(e) dat die finansiële posisie van die aansoeker gesond is;

(f) dat die totale bedrag van die beleggings van die aansoeker in—

(i) ander ondernemings as 'n geregistreerde Suid-Afrikaanse bouvereniging en eiendomsmaatskappy waarvan die eiendom hoofsaaklik vir bouverenigingdoelendes gebruik word; en

(ii) vaste eiendom wat nie hoofsaaklik vir bouverenigingdoeleindes gebruik word nie,

gesamentlik nie meer as 40 persent van die aansoeker se uitgerekte kapitaal en reserves bedra nie;

(g) dat die houers van aandele in die bouvereniging ten opsigte waarvan die aansoeker beoog om 'n bouverenigingbeheer-maatskappy te word op 'n grondslag wat nie met die bepalings van artikel 11 (2) onbestaanbaar is nie, die reg verleen is om by registrasie van 'n bouverenigingbeheermaatskappy onder hierdie Wet aandele in sodanige maatskappy te verkry op 'n grondslag en teen 'n prys wat met inagneming van die onaangetaste reserves en bedryfsresultate van die bouvereniging waarin hulle sodanige houers is en van die kapitaal, reserves en bedryfsresultate van die aansoeker, billik is;

(h) dat die akte van oprigting van die aansoeker buitenlandse aandeelhouers verbied om gesamentlik meer as 10 persent van sy aandele te besit of te verkry of beheer daaroor uit te oefen en dat die aandeelhouding in die aansoeker andersins voldoen aan die beperkings by hierdie Wet voorgeskryf ten opsigte van die aandeelhouding in 'n bouvereniging wat as 'n publieke maatskappy met aandelekapitaal ingevolge die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is; en

(i) dat registrasie van die aansoeker nie mededinging in die bouverenigingbedryf kan skaad nie,

moet hy teen betaling deur die aansoeker van 'n registrasiegeld van R1 000 die aansoeker as 'n bouverenigingbeheermaatskappy registreer en 'n sertifikaat van registrasie in die by regulasie voorgeskrewe vorm aan hom uitrek.

(4) (a) Die Registrateur kan, na oorlegpleging met die aansoeker, 'n persoon aanstel wat hy as 'n deskundige ag om onafhanklik van die aansoeker ondersoek in te stel na en aan hom verslag te doen oor die billikhed van die grondslag waarop en die prys waarteen die aansoeker beoog om aandele in hom aan die houers van aandele in die betrokke bouvereniging ter voldoening aan die bepalings van subartikel (3) (g) toe te ken.

(b) Die koste van 'n ondersoek ingevolge paragraaf (a) van hierdie subartikel moet deur die aansoeker gedra word en die Registrateur het die reg om sodanige koste, indien die aansoeker in gebreke bly om dit binne 30 dae nadat hy skriftelik daarom versoek is, te betaal, van die aansoeker te verhaal saam met enige regskoste wat redelikerwyse by die verhaling deur of ten behoeve van die Registrateur aangegaan word.

(b) that both the relative building society and the applicant are companies with share capital duly registered or deemed to have been registered under the Companies Act, 1973 (Act 61 of 1973);

(c) that the memorandum and articles of association of the applicant are not inconsistent with this Act and are not undesirable for any reason;

(d) that the applicant does not propose to adopt undesirable methods and practices in conducting his business;

(e) that the financial position of the applicant is sound;

(f) that the total amount of the applicant's investments in—

(i) undertakings other than a registered South African building society and property companies of which the property is used mainly for building society purposes; and

(ii) fixed property which is not used mainly for building society purposes,

does not together amount to more than 40 per cent of the applicant's issued capital and reserves;

(g) that the holders of shares in the building society in respect of which the applicant intends becoming a building society controlling company have been given the right, on conditions which are not inconsistent with the provisions of section 11 (2), to acquire shares in the building society controlling company upon its registration under this Act, on a basis and at a price which are fair in relation to the unimpaired reserves and trading results of the building society in which they are such holders and the capital, reserves and trading results of the applicant;

(h) that the memorandum of the applicant prohibits foreign shareholders to hold, acquire or exercise jointly control over more than 10 per cent of its shares and that the shareholding in the applicant otherwise complies with the restrictions laid down in this Act in respect of the shareholding in a building society which is registered as a public company with equity shares in terms of the Companies Act, 1973 (Act 61 of 1973); and

(i) that registration of the applicant shall not harm competition in the building society movement,

he shall, on payment by the applicant of a registration fee of R1 000, register the applicant as a building society controlling company and issue a certificate of registration to him in the form prescribed by regulation.

(4) (a) The Registrar may, after consultation with the applicant appoint a person who he regards as qualified to inquire into and report to him, independently of the applicant, on the fairness of the basis on which and the price at which the applicant intends allocating shares to the holders of shares in the relative building society in compliance with the provisions of subsection (3) (g).

(b) The costs of an inquiry in terms of paragraph (a) of this subsection shall be borne by the applicant and the Registrar shall be entitled, if the applicant fails to pay such costs within 30 days after he has been requested in writing for payment, to recover from the applicant such costs together with any legal costs reasonably incurred in connection with such recovery by or on behalf of the Registrar.

(5) Indien 'n aansoeker om registrasie as 'n bouverenigingsbeheermaatskappy ten opsigte van enige van die sake vermeld in subartikel (3) nie die Registrateur oortuig het nie moet die Registrateur die aansoeker skriftelik in kennis stel dat registrasie nie verleen word nie.

#### *Intrekking van registrasie van 'n bouverenigingsbeheermaatskappy*

16. Die bepalings van subartikels (2), (3), (4), (5) en (6) van artikel 9 is *mutatis mutandis* van toepassing wanneer die registrasie van 'n bouverenigingsbeheermaatskappy ingetrek word.

#### *Opgawes wat bouverenigings aan Registrateur moet voorlê*

17. (1) 'n Permanente bouvereniging moet die volgende in tweevoud aan die Registrateur verstrek, te wete—

(a) binne 'n tydperk van 21 dae vanaf die einde van elke maand van die jaar, 'n opgawe wat in 'n by regulasie voorgeskrewe vorm is en deur sy hoof-uitvoerende beampete in die Republiek as juis gesertifiseer is en wat die inligting bevat wat die Registrateur nodig het om hom in staat te stel om te bepaal of die vereniging die likwiede bates en die reserwesaldo by die Reserwebank, soos deur hierdie Wet vereis, in stand hou;

(b) binne 'n tydperk van 40 dae vanaf die einde van elke kalenderkwartaal, 'n staat in 'n by regulasie voorgeskrewe vorm en gesertifiseer op die wyse in paragraaf (a) voorgeskryf, van sy bates en laste aan die einde van die laaste besigheidsdag in daardie kwartaal;

(c) tesame met die in paragraaf (b) vermelde staat, 'n opgawe in 'n by regulasie voorgeskrewe vorm en op voor-  
melde wyse gesertifiseer wat die inligting bevat wat die Registrateur nodig het om hom in staat te stel om te bepaal of die vereniging die gestorte kapitaal en onaangetaste reserwefondse en waar toepaslik die voorgeskrewe aandeel-deposito's soos deur hierdie Wet vereis, in stand hou;

(d) gelykydig met die stuur of voorlegging van 'n staat van sy sake of 'n kennisgewing, verslag of ander dokument aan sy aandeelhouers 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 hoof-uitvoerende beampete as 'n ware afskrif gesertifiseer;

(e) binne 'n tydperk van 30 dae vanaf die datum van 'n vergadering van sy aandeelhouers of lede, 'n afskrif van die notule van dié vergadering, deur bedoelde hoof-uitvoerende beampete as juis gesertifiseer; en

(f) binne 'n tydperk wat die Registrateur bepaal, enige verdere opgawes of inligting wat die Registrateur die vereniging skriftelik versoek om te verstrek.

(2) Die bepalings van paragrawe (b), (d), (e) en (f) van subartikel (1) is *mutatis mutandis* van toepassing op tydelike bouverenigings.

(3) Die in subartikels (1) en (2) bedoelde regulasies kan verskillende vorms voorskryf vir die state en opgawes wat deur permanente en tydelike bouverenigings verstrek moet word.

(4) Van die state wat 'n bouvereniging ingevalle paragraaf (b) van subartikel (1) en (2) ten opsigte van die vier kwartale in 'n kalenderjaar aan die Registrateur verstrek, moet minstens een ook deur die bouvereniging se ouditeur as waar en billik gesertifiseer word, en, indien die Registrateur dit vereis, moet enige ander sodanige staat deur 'n bepaalde bouvereniging ten opsigte van 'n kalenderjaar verstrek, insgelyks aldus gesertifiseer word.

(5) If an applicant for registration as a building society controlling company has not satisfied the Registrar in respect of any of the matters referred to in subsection (3), the Registrar shall notify the applicant in writing that registration is not granted.

#### *Cancellation of registration of a building society controlling company*

16. The provisions of subsections (2), (3), (4), (5) and (6) of section 9 shall apply *mutatis mutandis* when the registration of a building society controlling company is cancelled.

#### *Returns which building societies must render to Registrar*

17. (1) A building society shall furnish to the Registrar in duplicate—

(a) within a period of 21 days as from the end of each month of the year, a return in a form prescribed by regulation and certified as correct by its chief executive officer in the Republic containing the information required by the Registrar in order to be able to determine whether the society maintains the liquid assets and the reserve balance with the Reserve Bank required by this Act;

(b) within a period of 40 days as from the end of every calendar quarter, a statement in a form prescribed by regulation and certified as prescribed in paragraph (a), of its assets and liabilities as at the close of the last business day of that quarter;

(c) together with the statement mentioned in paragraph (b), a return in a form prescribed by regulation and certified as aforesaid, containing the information required by the Registrar in order to be able to determine whether the society maintains the paid-up capital and unimpaired reserve funds and, where applicable, the prescribed share-deposits required by this Act;

(d) simultaneously with the sending or submission of any statements of its affairs or any 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 copy by the said chief executive officer;

(e) within a period of 30 days as from the date of any meeting of its shareholders or members, a copy of the minutes of such meeting, certified as correct by the said chief executive officer; and

(f) within such period as the Registrar may determine, any additional returns or information which the Registrar may in writing request the society to furnish.

(2) The provisions of paragraphs (b), (d), (e) and (f) of subsection (1) shall apply *mutatis mutandis* to terminating building societies.

(3) The regulations referred to in subsections (1) and (2) may prescribe different forms for the statements and returns to be furnished by permanent and terminating building societies.

(4) Of the statements furnished to the Registrar by any building society in terms of paragraph (b) of subsections (1) and (2) in respect of the four quarters in any calendar year, at least one shall also be certified as true and fair by the auditor of the building society, and, if the Registrar so requires, any other such statement submitted by a particular building society in respect of any calendar year shall likewise be so certified.

(5) 'n Permanente bouvereniging moet te alle tye op 'n ooglopende plek in elke gebou in die Republiek waar sy hoofkantoor of 'n takkantoor sy bedryf uitvoerf 'n afskrif van sy jongste ingevolge paragraaf (b) van subartikel (1) opgestelde staat van bates en laste vertoon.

(6) Die Registrateur moet uit die state ingevolge subartikels (1) (b) en (2) aan hom verstrek, vir elke kwartaal samegestelde state vir die bouverenigings opstel wat in die vorm is en die besonderhede bevat wat hy goedvind, en bedoelde samegestelde state in die *Staatskoerant* publiseer.

**Opgawes wat bouverenigingbeheermaatskappy aan Registrateur moet voorlê**

18. 'n Geregistreerde bouverenigingbeheermaatskappy moet aan die Registrateur verstrek—

(a) binne 'n tydperk van 21 dae na sy jaarlikse algemene vergadering, 'n kopie van sy jaarlikse rekeninge en die verslag van sy ouditeure wat deur sy hoof-uitvoerende beampte gesertifiseer is;

(b) binne 'n tydperk wat die Registrateur bepaal, die verdere opgawes of inligting wat die Registrateur die bouverenigingbeheermaatskappy skriftelik versoek om te verstrek ten einde hom in staat te stel om te kan bepaal of die maatskappy die bepalings van hierdie Wet nakom.

**Minimum aandelekapitaal, onaangetaste reserwefondse en aandeel-deposito's**

19. (1) 'n Permanente bouvereniging moet, behoudens die bepalings van subartikels (3) en (4), 'n gestorte aandelekapitaal en onaangetaste reserwefondse in die Republiek in stand hou wat tesame nie minder bedra nie as—

(a) R2 000 000; or

(b) 4 persent van die bedrag van sy verpligtings teenoor die publiek (insluitende verpligtings ten opsigte van aandeel-deposito's) soos aangegee in die jongste kwartaalstaat wat hy ingevolge artikel 17 (1) (b) aan die Registrateur verstrek het,

na gelang van watter bedrag die grootste is: Met dien verstande dat by die toepassing van hierdie subartikel 'n bouvereniging van sy voormalde verpligtings 'n bedrag kan aftrek wat gelyk is aan—

(i) die bedrag wat hy meer aan likwiede bates het as wat ingevolge hierdie Wet vereis word; en

(ii) die bedrae wat aan hom verskuldig is ten opsigte van lenings deur hom toegestaan teen sekerheid van vaste deposito's.

(2) 'n Permanente bouvereniging sonder aandelekapitaal moet behalwe die in subartikel (1) voorgeskrewe minimum onaangetaste reserwefondse, aandeel-deposito's in stand hou wat tesame nie minder bedra nie as 20 persent van sy verpligtings teenoor die publiek uitsluitende verpligtings ten opsigte van aandeel-deposito's, soos aangegee in die jongste vorige maandopgawe wat hy ingevolge artikel 17 (1) aan die Registrateur verstrek het.

(3) 'n Permanente bouvereniging wat op die eerste dag van Januarie 1986 nie aan die bepalings van subartikel (1) voldoen nie moet, behoudens die bepalings van subartikel (7), voor 1 Julie 1986 'n skema aan die Registrateur vir goedkeuring voorlê waarin uiteengesit word die stappe wat deur hom gedoen word om voor 1 Januarie 1996 aan die voorskrifte van subartikel (1) te voldoen.

(4) Die Registrateur keur die skema goed indien hy oortuig is dat—

(a) in die geval van 'n bouvereniging wat kragtens artikel 11 (1) goedkeuring verleen is om al sy bates en laste aan 'n publieke maatskappy met aandelekapitaal oor

(5) A building society shall at all times display in a conspicuous place in every building in the Republic in which its head office or a branch office carries on business, a copy of its last statement of assets and liabilities compiled in terms of paragraph (b) of subsection (1).

(6) The Registrar shall compile from the statements furnished to him in terms of subsections (1) (b) and (2) quarterly composite statements for the building societies, in such form and containing such particulars as he may deem fit, and publish such composite statements in the *Gazette*.

**Returns which building society controlling company must render to Registrar**

18. A registered building society controlling company shall submit to the Registrar—

(a) within a period of 21 days after its annual general meeting a copy of its annual accounts and the report by its auditors certified by its chief executive officer;

(b) within such period as the Registrar may determine, any additional returns or information which the Registrar may in writing request the building society controlling company to furnish in order to enable him to determine whether the company is complying with the provisions of this Act.

**Minimum share capital and reserves funds and share deposits**

19. (1) Subject to the provisions of subsections (3) and (4), a building society shall maintain in the Republic a paid-up share capital and unimpaired reserve funds together amounting to not less than—

(a) R2 000 000; or

(b) 4 per cent of its liabilities to the public (including those relating to share-deposits) as shown in the immediate preceding quarterly statement furnished to the Registrar in terms of section 17 (1) (b),

whichever is the greater: Provided that for the purposes of the application of this subsection a building society may deduct from its liabilities to the public—

(i) an amount equal to the amount of liquid assets it holds in excess of the amount required by this Act; and

(ii) the amounts owing to it in respect of loans granted by it on the security of fixed deposits.

(2) A permanent building society without equity share capital shall, in addition to the minimum unimpaired reserve funds prescribed in subsection (1), maintain share-deposits which in the aggregate do not amount to less than 20 per cent of its liabilities to the public other than liabilities relating to share-deposits, as shown in the immediate preceding monthly statement furnished to the Registrar in terms of section 17 (1).

(3) Subject to the provisions of subsection (7), a permanent building society which does not comply with the provisions of subsection (1) on the first day of January 1986, shall submit, before 1 July 1986, for the approval of the Registrar, a scheme setting forth the steps which are being taken by it to comply with the provisions of subsection (1) before 1 January 1996.

(4) The Registrar shall approve the scheme if he is satisfied that—

(a) in the case of a building society which has been given approval in terms of section 11 (1) to transfer all its assets and liabilities to a public company with share

te dra, 'n tekort aan kapitaal en onaangetaste reserwfondse wat onmiddellik voor sodanige oordrag bestaan by afhandeling van die oordrag uitgewis sal wees en dat sodanige oordrag voor 1 Julie 1987 afgehandel sal word;

(b) in die geval van 'n bouvereniging wat nie as maatskappy ingevolge die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is nie—

(i) die bedrag van die vereniging se onaangetaste reserwfondse plus sy aandeel-deposito's nie minder is nie as die minimum bedrag wat die bouvereniging aan aandelekapitaal en onaangetaste reserwfondse ingevolge subartikel (1) in stand moet hou;

(ii) enige bykomende tekort wat na 1 Januarie 1986 mag ontstaan deur beleggings in aandeel-deposito's by die bouvereniging gedeck sal word;

(iii) die tekort jaarliks met ten minste tien persent soos voorgeskryf in subartikel (8) (b) verminder sal word en dat die stappe wat gedoen word om enige bykomende tekorte wat mag ontstaan reg te stel finansieel gesond is en dat sodanige stappe sal verseker dat die bestaande tekort met bedoelde persentasie jaarliks verminder sal word; en

(iv) die skema in die lig van die bouvereniging se jongste bedryfsresultate uitvoerbaar en finansieel gesond is.

(5) Indien die Registrateur nie oortuig is nie dat 'n tekort ooreenkomsdig die voorskrifte van subartikel (4) verminder kan word of dat 'n bouvereniging sonder aandelekapitaal aan die voorskrifte van subartikel (4) (b) kan voldoen of dat die skema uitvoerbaar en finansieel gesond is, kan hy—

(a) die bouvereniging gelas om uitbreiding van sy werkzaamhede deur die opening van verdere takkantore of agentskappe te staak tot tyd en wyl die bouvereniging aan die vereistes van subartikel (1) voldoen.

(b) sulke ander beperkings op die uitbreiding van die werkzaamhede van 'n bouvereniging plaas as wat hy in die openbare belang wenslik ag om in te stel ten einde die bouvereniging in staat te stel om so gou doenlik aan die vereistes van subartikel (1) te voldoen.

(6) Die Registrateur kan die maatreëls bedoel in subartikel (5) toepas waar, nadat 'n skema ingevolge subartikel (4) goedgekeur is, 'n tekort aan kapitaal en onaangetaste reserwfondse nie met 'n oordrag van bates en laste soos in subartikel 4 (a) bedoel uitgewis word nie of in die geval van 'n bouvereniging bedoel in subartikel 4 (b) nie met die in daardie subartikel bedoelde toepaslike persentasie verminder word nie.

(7) Ondanks die bepalings van subartikels (5) en (6) kan die Registrateur 'n bouvereniging bedoel in subartikel 4 (b) uitstel van tyd vir hoogstens 12 maande verleen om 'n skema soos bedoel in subartikel (3) voor te lê of om aan enige van die maatreëls uiteengesit in subartikel (5) te voldoen, waar die bouvereniging reëlings getref het om voor verstryking van die tydperk waarvoor uitstel verlang word 'n publieke maatskappy met aandelekapitaal kragtens die Maatskappywet, 1973 (Wet 61 van 1973), te registreer en die Registrateur tevrede gestel het dat die maatskappy die bates en laste van die bouvereniging voor verstryking van die tydperk waarvoor uitstel verlang word sal oorneem en dat die maatskappy se onaangetaste aandelekapitaal en reserwfondse voldoende sal wees om 'n tekort aan kapitaal en onaangetaste reserwfondse uit te wis.

capital, a shortfall in capital and unimpaired reserve funds which exists immediately prior to such transfer will be extinguished on completion of the transfer and that such transfer will be completed before 1 July 1987.

(b) in the case of a building society which has not been registered as a company in terms of the Companies Act, 1973 (Act 61 of 1973)—

(i) the total amount of the society's unimpaired reserve funds plus its share-deposits is not less than the minimum amount which the building society has to maintain in terms of subsection (1);

(ii) any additional shortfall which may arise after 1 January 1986 will be covered by investments in share-deposits with the society;

(iii) the shortfall will be reduced annually by at least 10 per cent as set forth in subsection 8 (b), and that the steps which have been taken to make good any additional shortfalls which may arise are financially sound and that such steps will ensure that an existing shortfall will be reduced annually by the said percentage; and

(iv) the scheme is feasible and financially sound in the light of the building society's most recent trading results.

(5) If the Registrar is not satisfied that a shortfall can be reduced in accordance with the provisions of subsection (4) or that a building society without share capital can comply with the provisions of subsection 4 (b) or that the scheme is feasible and financially sound, he may—

(a) direct the building society to discontinue the expansion of its activities through the opening of new branch offices or agencies until the society complies with the requirements of subsection (1);

(b) place such other restrictions on the expansion of the activities of the building society as he may consider desirable to impose in the public interest in order to enable the building society to comply with the provisions of subsection (1) as soon as possible.

(6) The Registrar may apply the provisions of subsection 5 where, after a scheme has been approved in terms of subsection (4), a shortfall in capital and unimpaired reserve funds is not extinguished by a transfer of assets and liabilities as set forth in subsection 4 (a) or, in the case of a building society referred to in subsection 4 (b) reduced by the relative percentage laid down in that subsection.

(7) Notwithstanding the provisions of subsections (5) and (6), the Registrar may grant a building society referred to in subsection 4 (b) an extension of time of not more than 12 months to submit a scheme as referred to in subsection (3) or to comply with any of the measures set forth in subsection (5), where the building society has made arrangements to register a public company with share capital in terms of the Companies Act, 1973 (Act 61 of 1973), before expiry of the period for which an extension is required and has satisfied the Registrar that the company will take over the assets and liabilities of the building society before expiry of the period for which the extension is required and that the company's capital and unimpaired reserve funds will be sufficient to extinguish a shortfall in capital and unimpaired reserve funds.

(8) 'n Bouvereniging wat nie as 'n maatskappy ingevolge die Maatskappyywet, 1973 (Wet 61 van 1973), geregistreer is nie en wat nie op 1 Januarie 1986 aan die bepalings van subartikel (1) voldoen nie moet nie later nie as 1 Januarie 1996 aan daardie bepaling voldoen: Met dien verstande dat—

(a) wanneer 'n bouvereniging se gestorte kapitaal en onaangetaste reserwefondse die in subartikel (1) voor geskrewe minimum bedrag beloop, word die goedkeuring van die Registrateur ingevolge subartikel (4) geag ingetrek te wees en moet die bouvereniging van daardie datum af aan die bepaling van subartikel (1) voldoen;

(b) solank as wat 'n bouvereniging nie aan die bepaling van subartikel (1) voldoen nie moet hy vanaf 1 Januarie 1986 die volgende minimum bedrag kapitaal en reserwefondse hou:

1986—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) minus die tekort wat op 1 Januarie 1986 bestaan het.

1987—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) wat aan die einde van 'n betrokke kwartaal in 1987 in stand gehou moet word minus 90 persent van die tekort wat op 1 Januarie 1986 bestaan het.

1988—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) wat aan die einde van 'n betrokke kwartaal in 1988 in stand gehou moet word minus 80 persent van die tekort wat op 1 Januarie 1986 bestaan het.

1989—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) wat aan die einde van 'n betrokke kwartaal in 1989 in stand gehou moet word minus 70 persent van die tekort wat op 1 Januarie 1986 bestaan het.

1990—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) wat aan die einde van 'n betrokke kwartaal in 1990 in stand gehou moet word minus 60 persent van die tekort wat op 1 Januarie 1986 bestaan het.

1991—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) wat aan die einde van 'n betrokke kwartaal in 1991 in stand gehou moet word minus 50 persent van die tekort wat op 1 Januarie 1986 bestaan het.

1992—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) wat aan die einde van 'n betrokke kwartaal in 1992 in stand gehou moet word minus 40 persent van die tekort wat op 1 Januarie 1986 bestaan het.

1993—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) wat aan die einde van 'n betrokke kwartaal in 1993 in stand gehou moet word minus 30 persent van die tekort wat op 1 Januarie 1986 bestaan het.

1994—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) wat aan die einde van 'n betrokke kwartaal in 1994 in stand gehou moet word minus 20 persent van die tekort wat op 1 Januarie 1986 bestaan het.

1995—Die minimum bedrag kapitaal en onaangetaste reserwefondse voorgeskryf by subartikel (1) wat aan die einde van 'n betrokke kwartaal in 1995 in stand gehou moet word minus 10 persent van die tekort wat op 1 Januarie 1986 bestaan het.

1 Januarie 1996 en daarna—Die minimum bedrag kapitaal en onaangetaste reserwefondse soos by subartikel (1) voorgeskryf.

(8) A building society which is not registered as a company in terms of the Companies Act, 1973 (Act 61 of 1973), and which does not comply with the provisions of subsection (1) on 1 January 1986 shall comply with the provisions not later than 1 January 1996: Provided that—

(a) when the paid-up capital and unimpaired reserve funds of a building society reach the minimum amount prescribed in subsection (1), the approval given by the Registrar in terms of subsection (4) shall be deemed as having been withdrawn and from that date the building society shall comply with the provisions of subsection (1);

(b) as long as a building society does not comply with the provisions of subsection (1) it shall maintain the following minimum amount of capital and reserve funds with effect from 1 January 1986:

1986—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) less the shortfall which existed on 1 January 1986.

1987—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) which is to be maintained at the end of the relative quarter in 1987 less 90 per cent of the shortfall which existed on 1 January 1986.

1988—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) which is to be maintained at the end of the relative quarter in 1988 less 80 per cent of the shortfall which existed on 1 January 1986.

1989—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) which is to be maintained at the end of the relative quarter in 1989 less 70 per cent of the shortfall which existed on 1 January 1986.

1990—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) which is to be maintained at the end of the relative quarter in 1990 less 60 per cent of the shortfall which existed on 1 January 1986.

1991—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) which is to be maintained at the end of the relative quarter in 1991 less 50 per cent of the shortfall which existed on 1 January 1986.

1992—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) which is to be maintained at the end of the relative quarter in 1992 less 40 per cent of the shortfall which existed on 1 January 1986.

1993—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) which is to be maintained at the end of the relative quarter in 1993 less 30 per cent of the shortfall which existed on 1 January 1986.

1994—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) which is to be maintained at the end of the relative quarter in 1994 less 20 per cent of the shortfall which existed on 1 January 1986.

1995—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1) which is to be maintained at the end of the relative quarter in 1995 less 10 per cent of the shortfall which existed on 1 January 1986.

1 January 1996 and thereafter—The minimum amount of capital and unimpaired reserve funds prescribed in subsection (1).

(9) Vir die doeleindes van hierdie Wet word 'n bouvereniging wat 'n tekort aan kapitaal en onaangestaste reserwfondse het en op wie die bepalings van subartikel (5) nie van toepassing is nie, geag aan die minimum kapitaal en onaangestaste reserwfondse voorskrifte van hierdie Wet te voldoen indien hy, behoudens die bepalings van subartikel (8) (a), uitstel ingevolge subartikel (7) verleen is of onder 'n skema wat ingevolge subartikel (4) deur die Registrateur goedgekeur is aan die voorskrifte van subartikel (8) (b) voldoen.

#### **Minimum reserwesaldo**

20. (1) 'n Permanente bouvereniging moet by die Reserwebank 'n reserwesaldo in stand hou gelyk aan minstens—

- (a) 8 persent van sy korttermynverpligtigs teenoor die publiek; plus
- (b) 2 persent van sy middeltermynverpligtigs teenoor die publiek,

soos aangegee in die jongste maandopgawe wat hy ingevolge artikel 17 (1) (a) aan die Registrateur verstrek het.

(2) (a) Wanneer die Reserwebank dit in die nasionale ekonomiese belang wenslik ag dat 'n reserwesaldo voorgeskryf by subartikel (1) vermeerder moet word of dat 'n bestaande reserwesaldo verminder moet word, kan die President van die Reserwebank met die toestemming van die Minister van tyd tot tyd bepaal dat die persentasies in subartikel (1) of kragtens hierdie subartikel voorgeskryf vermeerder of verminder word tot 'n persentasie vermeld in die skriftelike kennisgewing aan die Registrateur waarna in paragraaf (b) verwys word.

(b) Wanneer die Reserwebank kragtens paragraaf (a) 'n bepaling gemaak het, stel hy die Registrateur skriftelik daarvan in kennis, en die Registrateur moet so gou doenlik elke bouvereniging skriftelik van die bepaling in kennis stel en die bepaling in die *Staatskoerant* laat afkondig.

(c) 'n Bepaling ingevolge paragraaf (b) word van krag op 'n datum in die kennisgewing in die *Staatskoerant* vermeld.

#### **Minimum likwiede bates**

21. 'n Permanente bouvereniging moet in die Republiek likwiede bates in stand hou tot 'n bedrag minstens gelyk aan die som van—

- (a) 20 persent van sy korttermynverpligtigs teenoor die publiek in die Republiek;
- (b) 15 persent van sy middeltermynverpligtigs teenoor die publiek in die Republiek; en
- (c) 5 persent van sy langtermynverpligtigs teenoor die publiek in die Republiek;

soos aangegee in die jongste maandopgawe wat hy ingevolge paragraaf (a) van subartikel (1) van artikel 17 aan die Registrateur verstrek het.

#### **Bouvereniging moet 'n gedekte posisie handhaaf**

22. (1) 'n Bouvereniging moet—

(a) bates in stand hou wat nie verpand of andersins beswaar is nie en waarvan die totale waarde nie minder is nie as die bedrag van sy totale verpligtigs; en

(b) bates (afgesien van vorderings) wat nie verpand of andersins beswaar is nie en wat in die Republiek geleë is en bates bestaande uit vorderings wat in die betaalmiddel van die Republiek betaalbaar is en wat nie verpand of andersins beswaar is nie, in stand hou waarvan die totale waarde nie minder is nie as die som van—

(i) die bedrag van sy verpligtigs wat in die betaalmiddel van die Republiek betaalbaar is; en

(9) For the purposes of this Act a building society which has a shortfall in its prescribed capital and unimpaired reserve funds and to which the provisions of subsection (5) do not apply, shall, subject to the provisions of subsection 8 (a), be deemed to be complying with the minimum capital and unimpaired reserve funds requirements of this Act, if it has been granted and extension of time in terms of subsection (7) or if it is complying with the provisions of subsection 8 (b) in terms of a scheme approved by the Registrar in terms of subsection (4).

#### **Minimum reserve balance**

20. (1) A permanent building society shall maintain a reserve balance with the Reserve Bank amounting to not less than—

- (a) 8 per cent of its short-term liabilities to the public; plus
- (b) 2 per cent of its medium-term liabilities to the public,

as shown in the last preceding monthly return furnished by it to the Registrar in terms of section 17 (1) (a).

(2) (a) Whenever the Reserve Bank deems it desirable in the national economic interest that a reserve balance prescribed in subsection (1) be increased or that an existing reserve balance be reduced, the President of the Reserve Bank may with the consent of the Minister from time to time determine that a percentage prescribed in subsection (1) or in terms of this subsection shall be increased or reduced to a percentage mentioned in the written notice to the Registrar referred to in paragraph (b).

(b) Whenever the Reserve Bank has made a determination in terms of paragraph (a), it shall inform the Registrar thereof in writing, and the Registrar shall as soon as practicable give written notice of the determination to every building society and cause the determination to be published in the *Gazette*.

(c) A determination in terms of paragraph (b) shall take effect on a date mentioned in the notice in the *Gazette*.

#### **Minimum liquid assets**

21. A permanent building society shall maintain in the Republic liquid assets amounting to not less than the aggregate of—

- (a) 20 per cent of its short-term liabilities to the public in the Republic;
- (b) 15 per cent of its medium-term liabilities to the public in the Republic; and
- (c) 5 per cent of its long-term liabilities to the public in the Republic;

as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of subsection (1) of section 17.

#### **Building societies must maintain a covered position**

22. (1) A building society shall—

(a) maintain assets which are not pledged or otherwise encumbered and of which the total value is not less than the amount of its total liabilities; and

(b) maintain assets (other than claims) which are not pledged or otherwise encumbered and which are situated in the Republic, and assets consisting of claims payable in the currency of the Republic which are not pledged or otherwise encumbered, of an aggregate value not less than the sum of—

(i) the amount of its liabilities payable in the currency of the Republic; and

(ii) die gestorte kapitaal en onaangestaste reserwefondse wat hy ingevolge artikel 19 in stand moet hou, soos aangegee in die jongste kwartaalopgawe wat hy ingevolge paraaf (c) van subartikel (1) van artikel 17 aan die Registrateur verstrek het.

(2) Die verpligtings van 'n bouvereniging wat in die bealaamiddel van die Republiek betaalbaar is, geniet voorrang bo alle ander verpligtings teen die bates wat hy ingevolge subartikel (1) (b) in stand moet hou.

#### **Tydperk vir instandhouding van voorgeskrewe minima**

23. 'n Bouvereniging moet enige deur of kragtens artikel 19, 20 en 21 voorgeskrewe minimum bedrag in stand hou te alle tye gedurende die tydperk vanaf die datum van sertifisering ingevolge paragraaf (a) of (c) van subartikel (1) van artikel 17 van die staat of opgawe aan die hand waarvan daardie bedrag bepaal word, tot die dag voor die datum waarop die eersvolgende sodanige staat of opgawe aldus gesertifiseer word.

#### **Deposito's**

24. (1) 'n Vereniging neem nie geld aan wat op aanvraag per tjek, wissel of order betaalbaar is en ontrek kan word nie maar kan geld aanneem in 'n transmissierekening waauruit bedrae op versoek van die deposito uitbetaal of oorgeboek kan word.

(2) 'n Vereniging neem nie spaardeposito's van 'n ander maatskappy met beperkte aanspreeklikheid as 'n vereniging wat kragtens artikel 21 van die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is, aan nie tensy—

(a) die deposito's aangeneem word onderworpe aan die voorwaardes dat slegs een ontrekking per maand gedoen kan word en dat elke deposito of ontrekking minstens R100 moet bedra; of

(b) die gelde aldus by die vereniging belê, deposito's bedoel in paragrawe (a) en (b) van die voorbehoudsbepaling by artikel 25 (2) van die Wet op Huurgelde, 1950 (Wet 43 van 1950), verteenwoordig.

(3) 'n Vereniging laat niemand toe nie om by hom 'n kreditsaldo op spaarrekening [met uitsluiting van die saldo op 'n rekening kragtens die Staatsondersteunde Huis-eienaarsbesparingskema vermeld in artikel 10 (1) (i) (xiiA) van die Inkomstebelastingwet, 1962 (Wet 58 van 1962)], te hou van meer as R50 000: Met dien verstande dat die bepalings van hierdie subartikel 'n vereniging nie belet om 'n spaarrekening met rente te krediteer nie.

(4) Waar die kreditsaldo op 'n spaarrekening op die eerste dag van Januarie 1986 die by subartikel (3) voorgeskrewe perk wettiglik oorskry het, hoef dit nie op grond van die bepalings van vermelde subartikel verminder te word nie: Met dien verstande dat—

(a) geen verdere bedrag behalwe rente aan so 'n rekening gekrediteer mag word solank sy kreditsaldo genoemde perk oorskry nie; en

(b) indien die saldo van so 'n rekening te eniger tyd benede vermelde perk daal, dié perk ook daarop van toepassing is.

(5) Waar die perk voorgeskryf by subartikel (3) oorskry word as gevolg van die samesmelting van twee of meer verenigings of die oordrag van bates en laste van een vereniging aan 'n ander, is die bepalings van subartikel (4) *mutatis mutandis* van toepassing asof die betrokke spaarrekening op die eerste dag van Januarie 1986 bestaan het en daardie perk op daardie datum oorskry het.

(6) Waar fondse op rekening van 'n *bona fide*-trust gedeponeer word, kan afsonderlike rekenings deur dieselfde trustee vir verskillende trusts geopen word, onderworpe in elke afsonderlike geval aan die perke in hierdie artikel voorgeskryf.

(ii) the paid-up capital and unimpaired reserve funds which it is required to maintain in terms of section 19 as shown in the last preceding quarterly return furnished by it to the Registrar in terms of paragraph (c) of subsection (1) of section 17.

(2) The liabilities of a building society which are payable in the currency of the Republic shall be a prior charge (as against all other liabilities) on the assets which it is required to maintain in terms of subsection (1) (b).

#### **Period for maintenance of prescribed minima**

23. A building society shall maintain any minimum amount prescribed by or under section 19, 20 and 21 at all times during the period from the date of certification under paragraph (a) or (c) of subsection (1) of section 17 of the statement or return by reference to which that amount is determined, until the day preceding the date on which the next succeeding such statement or return is so certified.

#### **Deposits**

24. (1) A society shall not accept deposits of money subject to withdrawal by cheque, draft or order payable on demand but may accept deposits in a transmission account from which amounts may be paid out or transferred at the request of the depositor.

(2) A society shall not accept savings deposits from any company with limited liability other than an association registered in terms of section 21 of the Companies Act, 1973 (Act 61 of 1973), unless—

(a) the deposits are accepted subject to the conditions that only one withdrawal may be made per month and that each deposit or withdrawal shall amount to not less than R100; or

(b) the moneys so invested with the society represent deposits referred to in paragraphs (a) and (b) of the proviso to section 25 (2) of the Rents Act, 1950 (Act 43 of 1950).

(3) A society shall not allow any one person to maintain with it a credit balance on savings account [excluding any balance on an account under the State-Aided Home-Ownership Savings Scheme mentioned in section 10 (1) (i) (xiiA) of the Income Tax Act, 1962 (Act 58 of 1962)], in excess of R50 000: Provided that nothing in this subsection contained shall preclude a society from crediting interest to a savings account.

(4) Where on the first day of January, 1986, the credit balance on a savings account lawfully exceeded the limit prescribed by subsection (3), such balance shall not by reason of the provisions of the said subsection be required to be reduced: Provided that—

(a) no further amount other than interest shall be credited to such account so long as it shows a credit balance exceeding the said limit; and

(b) if the balance in such account is at any time reduced to below the said limit, such limit shall also apply to it.

(5) Where the limit prescribed by subsection (3) is exceeded as a result of an amalgamation of two or more societies or the transfer of assets and liabilities of any society to another society, the provisions of subsection (4) shall *mutatis mutandis* apply as if the savings account in question had been in existence on the first day of January, 1986 and had exceeded that limit on that date.

(6) Where funds are deposited for account of a *bona fide* trust, separate accounts may be opened by the same trustee for different trusts, subject in each individual case to the limits prescribed by this section.

(7) 'n Bouvereniging moet 'n vaste deposito vir 'n minimum aanvanklike looptyd van 12 maande neem en moet so 'n deposito op die vervaldag terugbetaal en nie vroeër nie, maar hoef dit nie op die vervaldag terug te betaal waar die betrokke deposant hom vooraf skriftelik opdrag gegee het betreffende die wyse waarop die deposito of enige gedeelte daarvan by die vereniging herbelê moet word nie: Met dien verstande dat 'n vaste deposito wat herbelê word vir 'n korter tydperk as 12 maande herbelê kan word maar dat dit slegs eenmaal vir so 'n korter tydperk herbelê kan word.

(8) Ondanks die bepalings van subartikel (7), kan 'n vereniging na goeddunke 'n vaste deposito voor die vervaldag terugbetaal—

- (a) waar die deposito deel uitmaak van die bates van 'n insolvente of bestorwe boedel;
- (b) waar die deposant onder kuratele geplaas is;
- (c) waar die deposant onder geregtelike bestuur of in likwidasië geplaas is;
- (d) waar die deposito deur 'n pensioenfonds benodig is om uitgestelde pensioenbetalings te doen;
- (e) in die geval van 'n vaste deposito wat as kollaterale sekuriteit vir 'n verbandlenging aan die vereniging gesdeer is;
- (f) in enige geval na die verstrekking van 'n tydperk van 12 maande vanaf die datum waarop die deposito by hom gestort of laas by hom herbelê is, indien die deposant hom minstens 30 dae kennis van opvraging gegee het; of
- (g) in die ander gevalle wat die Registrateur in die algemeen of in 'n besondere geval goedkeur.

(9) 'n Bouvereniging mag nie teen sekuriteit van 'n vaste deposito wat die lener by hom het 'n lening verstrek teen 'n rentekoers wat nie minstens 2 persent op die bedrag van die lening hoer is as die rentekoers wat op bedoelde deposito betaalbaar is nie of as die rentekoers wat op die datum van so 'n lening deur die vereniging op nuwe vaste deposito's met dieselfde oorspronklike looptyd betaal word, watter rentekoers ookal die hoogste is.

(10) 'n Bouvereniging mag nie teenoor lede van die publiek voorgee dat hy te alle tye toestemming sal verleen dat spaardeposito's terugbetaal word op korter kennis, met betrekking tot die bedrag opgevra, as wat die reglemente van daardie bouvereniging bepaal nie.

#### Aandeel-deposito's

25. (1) 'n Permanente bouvereniging wat ingevolge die Maatskappywet, 1973 (Wet 61 van 1973), as 'n maatskappy met aandelekapitaal geregistreer is mag nie aandeel-deposito's neem nie en 'n bouvereniging wat nie ingevolge bedoelde Wet geregistreer is nie kan 'n aandeel-deposito vir 'n onbepaalde termyn neem en sodanige bouvereniging se statute moet bepaal dat—

(a) so 'n deposito nie voor verstrekking van 'n minimum tydperk van twee jaar, bereken vanaf die laaste datum waarop so 'n deposito by die betrokke bouvereniging gemaak is, terugbetaal mag word nie;

(b) die Raad van Direkteure terugbetaling van 'n aandeel-deposito kan weier waar sodanige terugbetaling—

(i) die gevolg kan hê dat die bouvereniging nie aan die voorskrifte van artikel 19 voldoen nie; of

(ii) nie in belang van die bouvereniging is nie;

(c) 'n bouvereniging 'n aandeel-deposito op vervaldatum kan terugbetaal en dat die aanspreeklikheid van 'n lid soos bepaal in die statute van die bouvereniging, ten opsigte van die aandeel-deposito wat terugbetaal word, op die datum van terugbetaling verval indien die terugbetaling gemaak word terwyl die bouvereniging aan die voorskrifte van artikel 19 voldoen;

(7) A society shall accept a fixed deposit for a minimum initial period of 12 months and shall repay such deposit on due date and not earlier, but shall not be required to repay it on due date where the depositor concerned has previously instructed it in writing as to the manner in which the deposit or any portion thereof is to be reinvested with the society: Provided that a fixed deposit which is being reinvested may be reinvested for a shorter period than 12 months but that it may be reinvested for such shorter period once only.

(8) Notwithstanding the provisions of subsection (7), a society may in its discretion repay a fixed deposit before due date—

- (a) where the deposit forms part of the assets in an insolvent or a deceased estate;
- (b) where the depositor has been placed under curatorship;
- (c) where the depositor has been placed under judicial management or in liquidation;
- (d) where the deposit is required by a pension fund to effect deferred pension payments;
- (e) in the case of a fixed deposit ceded to the society as collateral security for a mortgage loan;
- (f) in any case after the expiration of a period of 12 months from the date on which the deposit was made with it or was last reinvested with it if the depositor has given it at least 30 days' notice of withdrawal; or
- (g) in such other cases as the Registrar may approve either generally or in any particular case.

(9) A society shall not grant a loan against the security of a fixed deposit which it holds to the credit of the borrower at a rate of interest which is not at least 2 per cent on the amount of such loan higher than the rate payable in respect of such deposit or the rate of interest which is paid by the society on the date of the loan on new fixed deposits with the same original term, whichever rate of interest is the higher.

(10) A society shall not hold out to members of the public that it will at all times consent to the repayment of savings deposits at shorter notice, in relation to the amount to be withdrawn, than is determined by the rules of that society.

#### Share deposits

25. (1) A permanent building society which is registered as a company with equity share capital in terms of the Companies Act, 1973 (Act 61 of 1973), shall not accept share deposits and a building society which is not registered in terms of the said Act may accept a share deposit for an indefinite period and the rules of such society shall state that—

(a) such deposit shall not be repaid before expiry of a minimum period of two years, calculated from the last date on which such a deposit was made with the relative building society;

(b) the board of directors may refuse repayment of a share deposit where such repayment—

(i) may have the effect that the building society does not comply with the provisions of section 19; or

(ii) is not in the interest of the building society;

(c) a building society may repay a share deposit on due date and that the liability of a member as set forth in the society's rules shall, in respect of the share deposit which is repaid, terminate on the date of repayment where such repayment is made while the provisions of section 19 are complied with by the society;

(d) indien 'n terugbetaling aan 'n lid gemaak word op 'n datum waarop die bouvereniging nie aan die bepalings van artikel 19 voldoen nie en 'n kurator vir die bouvereniging aangestel word of die bouvereniging onder geregtelike bestuur geplaas word of in likwidiasie gaan voordat daar deur die bouvereniging aan bedoelde bepalings, op enige datum na sodanige terugbetaling, voldoen is, 'n kurator, geregtelike bestuurder of likwidator, na gelang van die geval, so sou doenlik nadat hy aangestel is, die bedrag wat aldus terugbetaal is van die betrokke lid kan terugvorder.

(2) Behoudens die bepalings van paragrawe (c) en (d) van subartikel (1) is die bepalings van artikel 24 (8) [behalwe artikel 24 (8) (f)] *mutatis mutandis* van toepassing op 'n aandeel-deposito.

(3) Wanneer 'n bouvereniging ingevolge die bepalings van artikel 11 (1) sy bates en laste oordra aan 'n publieke maatskappy met aandelekapitaal wat kragtens die Maatskappylwet, 1973 (Wet 61 van 1973), geregistreer is, word daardie gedeelte van 'n aandeel-deposito wat nie deur die houer van so 'n aandeel-deposito gebruik word nie vir betaling van die aandele wat hy in die maatskappy opgeneem het, van die datum van oordrag af, as 'n vaste deposito geag en is die bepalings van artikel 24 *mutatis mutandis* van toepassing op sodanige deposito.

#### **Bouverenigingaandele**

26. (1) Behoudens die bepalings van subartikel (5) bly die bedinge en voorwaarde wat onmiddellik voor die inwerkingtreding van hierdie Wet op 'n belegging in bouverenigingaandele van toepassing was van krag vir die onverstreke termyn van sodanige belegging van vir 'n termyn van 10 jaar na die datum van sodanige inwerkingtreding watter tydperk ookal die eerste verstryk.

(2) By verstryking van die termyn in subartikel (1) bedoel, word die belegging geag 'n aandeel-deposito te wees en word die bedinge en voorwaarde wat op die datum van verstryking op 'n aandeel-deposito by die bouvereniging van toepassing is, van bedoelde datum af, *mutatis mutandis* van toepassing op sodanige belegging.

(3) Tot by verstryking van 'n termyn in subartikel (2) vermeld, word 'n belegging in bouverenigingaandele vir die doeleindes van artikel 19 geag 'n aandeel-deposito te wees.

(4) Waar 'n bouvereniging ingevolge artikel 11 (1) sy bates en laste aan 'n maatskappy met aandelekapitaal oordra, kan die Raad van Direkteure van die betrokke vereniging met die skriftelike toestemming van die houer van 'n bouverenigingaandeel 'n belegging in bouverenigingaandele of 'n gedeelte van sodanige belegging gebruik om te betaal vir aandele in die maatskappy waarvoor die betrokke houer aansoek gedoen het en wat aan hom toegeken is.

(5) Die bepalings van artikel 25 (3) is *mutatis mutandis* van toepassing op daardie gedeelte van 'n bouverenigingaandeel wat by 'n oordrag van bates en laste ingevolge artikel 11 (1) nie gebruik word nie vir die betaling van aandele in die maatskappy wat die bates en laste van die bouvereniging oorneem.

#### **Beperking op sekere transaksies van bouverenigings**

27. (1) Die totale bedrag van 'n permanente bouvereniging se belegging in vaste eiendom, in lenings en voorskotte aan filiale van die bouvereniging waarvan die hoofdoelstelling die besit of ontwikkeling van vaste eiendom is, en in aandele (uitgesonderd aflosbare voorkeuraandele maar nie voorkeuraandele wat in gewone aandele omskepbaar is nie), met inbegrip van aandele in filialmaatskappye van die bouvereniging, mag nie die bouvereniging se opbetaalde kapitaal en onaangetaste reserwfondse oorskry nie: Met dien

(d) if a share deposit is repaid to a member on a date on which the society is not complying with the provisions of section 19 and a curator is appointed for the building society or the society is placed under judicial management or goes into liquidation before the said provisions have been complied with by the Society on any date after such repayment, the curator, judicial manager or liquidator, as the case may be, may as soon as possible after his appointment recover from the relative member the amount so repaid.

(2) Subject to the provisions of paragraphs (c) and (d) of subsection (1) the provisions of section 24 (8) [excluding section 24 (8) (f)] shall apply *mutatis mutandis* to a share deposit.

(3) When a building society transfers its assets and liabilities in terms of section 11 (1) to a public company with equity share capital duly registered in terms of the Companies Act, 1973 (Act 61 of 1973), the portion of a share deposit which is not applied by the holder of the share deposit for the payment of shares subscribed to in the company by him, shall be deemed to be a fixed deposit, with effect from the date of such transfer and the provisions of section 24 shall apply *mutatis mutandis* to such deposit.

#### **Building society shares**

26. (1) Subject to the provisions of subsection (5), the terms and conditions which applied to an investment in building society shares immediately prior to the commencement of this Act, shall remain in force for the unexpired period for which the investment was made or for a period of 10 years calculated from the date of such commencement, whichever period expires first.

(2) On expiry of a period referred to in subsection (1), an investment in building society shares shall be deemed to be a share deposit and the terms and conditions applicable to a share deposit with the building society on the date of such expiry shall apply *mutatis mutandis* to such an investment with effect from the said date.

(3) Until expiry of a period referred to in subsection (2), an investment in building society shares shall be deemed to be a share deposit for the purposes of section 19.

(4) Where a building society transfers its assets and liabilities to a company with equity share capital in terms of section 11 (1), the Board of Directors of the society concerned may, with the written consent of the holder of a building society share, apply an investment in building society shares or a portion thereof to pay for shares subscribed to by, and allotted to, the relative holder in the company.

(5) The provisions of section 25 (3) shall apply *mutatis mutandis* to the portion of a building society share which, in the case of a transfer of assets and liabilities in terms of section 11 (1), is not applied for the payment of shares subscribed to in the company which takes over the assets and liabilities from the society.

#### **Limitation on certain transactions of building societies**

27. (1) The total amount of a permanent building society's investment in fixed property, in loans and advances to subsidiaries of the building society of which the main object is the holding or development of fixed property, and in shares (excluding redeemable preference shares but not preference shares which can be converted into ordinary shares), including shares in subsidiary companies of the building society, shall not exceed the building society's

verstande dat in die geval waar vaste eiendom of 'n onderneming deur die bouvereniging ingekoop word om 'n belegging (met inbegrip van 'n lening of voorskot) te beskerm, die bedrag van sodanige belegging vir 'n tydperk van vyf jaar vanaf die datum van die inkoop nie vir doeleindes van hierdie subartikel in berekening gebring word nie.

(2) 'n Bouvereniging en sy geassosieerde mag nie aandele in 'n geregistreerde versekeraar hou nie waarvan die totale nominale waarde 'n bedrag gelykstaande met 30 persent van die nominale waarde van al die uitgereikte aandele van daardie versekeraar oorskry.

(3) (a) Waar in 'n bepaalde geval by die inwerkintreding van hierdie Wet die verhouding vermeld in subartikel (2) oorskry word, kan—

(i) 'n bouvereniging wat as 'n publieke maatskappy met aandelekapitaal kragtens die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is en sy geassosieerde die betrokke aandele behou maar solank sodanige verhouding oorskry word, mag hulle geen bykomende aandele in bedoelde versekeraar verkry nie; en

(ii) 'n bouvereniging wat nie as 'n publieke maatskappy met aandelekapitaal kragtens die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is nie en sy geassosieerde die betrokke aandele behou maar solank as wat die bouvereniging nie aldus geregistreer is nie bly die beperkings wat kragtens die Versekeringswet, 1943 (Wet 27 van 1943), op die aktiwiteite van die versekeraar opgelê is van krag;

(b) die beperkinge opgelê kragtens die Versekeringswet, 1943 (Wet 27 van 1943), wat onmiddellik voor die inwerkintreding van hierdie Wet van toepassing was op 'n versekeraar wie se aandele deur 'n bouvereniging bedoel in paragraaf (a) (i) besit word, word van die datum van genoemde inwerkintreding af as teruggetrek geag ten opsigte van die versekeringsbesigheid waarvoor sodanige versekeraar kragtens genoemde Versekeringswet geregistreer is; en

(c) waar 'n bouvereniging bedoel in paragraaf (a) (ii) sy bates en laste na inwerkintreding van hierdie Wet oordra aan 'n bouvereniging wat as 'n maatskappy op die wyse vermeld in artikel 11 (1) geregistreer is, is die bepalings van paragrawe (a) (i) en (b) van die datum van oordrag af *mutatis mutandis* van toepassing op die oordagnemende bouvereniging.

(4) (a) Die totale bedrag verskuldig aan 'n bouvereniging ten opsigte van lenings en voorskotte deur hom verleen aan lede van sy geaffilieerde groep, behalwe dié aan 'n bankinstelling in daardie groep plus die totale bedrag van die bouvereniging se belegging in aflosbare voorkeuraandele (uitgesonderd voorkeuraandele wat in gewone aandele omskepbaar is) uitgereik deur lede van gemelde groep, mag nie 'n bedrag gelykstaande met 5 persent van die bouvereniging se totale verpligtings teenoor die publiek oorskry nie: Met dien verstande dat die totaalsom van die bedrag verskuldig ten opsigte van genoemde lenings en voorskotte en die bedrag van die vereniging se belegging in die gemelde aflosbare voorkeuraandele verminder kan word met die bedrag waarmee die totale bedrag van die opbetaalde kapitaal en onaangetaste reserwes van die bouvereniging sy belegging in vaste eiendom, lenings en voorskotte aan filiale, en in die aandele in subartikel (1) vermeld, oorskry.

(b) Vir die doeleindes van paragraaf (a) omvat "geaffilieerde groep" die bouvereniging se beherende aandehouers en dié van sy beherende maatskappy, sy filiaalmaatskappye, sy beherende maatskappy, genoemde maatskappye se filiaalmaatskappye en 'n maatskappy of onderneming wat regstreeks of onregstreeks deur enige van genoemde persone of die bouvereniging beheer word.

paid-up capital and unimpaired reserves: Provided that in the case where fixed property or an undertaking is bought in by a building society to protect an investment (including a loan or an advance) the amount of such an investment shall for a period of five years from the date of purchase not be taken into account for the purposes of this subsection.

(2) A building society and its associates shall not hold shares in a registered insurer of which the total nominal value exceeds an amount equal to 30 per cent of the nominal value of all the issued shares of that insurer.

(3) (a) Where in any particular case at the commencement of this Act the ratio set forth in subsection (2) is exceeded—

(i) a building society registered as a public company with share capital in terms of the Companies Act, 1973 (Act 61 of 1973), and its associates may retain the relative shares, but they shall not acquire any additional shares in the insurer as long as such ratio is exceeded; and

(ii) a building society which is *not* registered as a public company with share capital in terms of the Companies Act, 1973 (Act 61 of 1973), and its associates may retain such shares, but as long as the building society is not so registered the restrictions imposed on the activities of the insurer in terms of the Insurance Act, 1943 (Act 27 of 1943), shall remain in force.

(b) the restrictions imposed under the Insurance Act, 1943 (Act 27 of 1943), and which immediately prior to the commencement of this Act applied to an insurer, the shares of which are held by a building society referred to in paragraph (a) (i), shall be deemed as having been withdrawn with effect from the date of such commencement in respect of the insurance business for which such insurer is registered in terms of the said Insurance Act; and

(c) where a building society referred to in paragraph (a) (ii) transfers its assets and liabilities after the commencement of this Act to a building society which is registered as a company in the manner set forth in section 11 (1), the provisions of paragraphs (a) (i) and (b) shall apply *mutatis mutandis* with effect from the date of transfer to the building society taking over the said assets and liabilities.

(4) (a) The total amount owing to a building society in respect of loans and advances granted by it to members of its affiliated group, other than those to a banking institution in that group plus the total amount of the building society's investment in redeemable preference shares (excluding preference shares which can be converted into ordinary shares) issued by members of the said group shall not exceed an amount equal to 5 per cent of the building society's total liabilities to the public: Provided that the sum of the amount owing in respect of the loans and advances mentioned and the amount of the society's investment in the redeemable preference shares mentioned may be reduced by the amount by which the total amount of the building society's paid-up capital and unimpaired reserves exceeds its investment in fixed property, loans and advances to subsidiaries, and in the shares mentioned in subsection (1).

(b) For the purposes of paragraph (a) "affiliated group" includes the building society's controlling shareholders and those of its controlling company, its subsidiary companies, its controlling company, the said companies' subsidiary companies and a company or undertaking which is directly or indirectly controlled by any of the said persons or the building society.

**(5) 'n Permanente bouvereniging—**

(a) wat nie as 'n publieke maatskappy met aandelekapitaal ingevolge die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is nie, belê nie 'n deel van sy fondse in aandele van 'n bankinstelling nie;

(b) kan 'n totale bedrag gelykstaande met 5 persent van sy totale verpligte teenoor die publiek gebruik om aan natuurlike persone lenings vir persoonlike, familie of huishoudelike doeleindes toe te staan.

(6) Die totale bedrag verskuldig aan 'n bouvereniging ten opsigte van lenings en voorskotte wat deur die bouvereniging na inwerkingtreding van hierdie Wet toegestaan word teen sekerheid van verbande op stedelike vaste eiendom wat gekoop is deur lede van die publiek van 'n eiendomsontwikkelingsmaatskappy wat 'n filiaal of geaffilieerde maatskappy van die bouvereniging is, mag nie 'n bedrag gelykstaande met 5 persent van die bouvereniging se totale verpligte teenoor die publiek oorskry nie.

(7) Niks in hierdie artikel vervat verbied 'n bouvereniging wat as publieke maatskappy met aandelekapitaal kragtens die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is om met die goedkeuring van die Registrateur van Banke 'n bankinstelling as 'n filiaal van die bouvereniging te registreer nie of om 'n belang in 'n bankinstelling te verkry nie.

(8) 'n Bouvereniging moet die besonderhede wat by regulasie voorgeskryf is ten opsigte van die aflosbare voorkeuraandele en voorskotte bedoel in subartikel (4), verstrek in die staat wat die bouvereniging ingevolge artikel 17 (1) (b) aan die Registrateur moet verstrek.

**Belegging van fondse**

28. (1) 'n Permanente bouvereniging moet 'n bedrag gelykstaande aan ten minste 80 persent van daardie deel van sy fondse wat nie as reserwesaldo by die Reserwebank gehou word of belê is in die vorm van 'n bate wat as 'n likwiede bate geld of vir 'n doel genoem in subartikels (1) en (4) (a) van artikel 27 gebruik is nie, belê of beskikbaar hou vir onmiddellike belegging in voorskotte of hervoorskotte teen sekerheid van verbande op stedelike vaste eiendom waarop 'n woonhuis opgerig is of opgerig word of vir die oprigting van 'n woonhuis gereserveer is.

(2) 'n Permanente bouvereniging staan, in die geval van 'n verminderbare verband op vaste eiendom in subartikel (1) bedoel, nie 'n voorskot van meer as 90 persent van die redelike vasgestelde waarde van die verhipoteekteerde eiendom of reg van huurpag of die oorgedraagte huurkontrak of lisensie wat as sekuriteit vir die voorskot dien, toe nie tensy kollaterale sekuriteit deur of ten behoeve van die verbandewer ten gunste van die bouvereniging verstrek word.

(3) 'n Permanente bouvereniging staan, in die geval van 'n vaste termyn verband op vaste eiendom in subartikel (1) bedoel, nie 'n voorskot van meer as 80 persent van die redelike vasgestelde waarde van die verhipoteekteerde eiendom of reg van huurpag of oorgedraagte huurkontrak of lisensie wat as sekuriteit vir die voorskot dien, toe nie tensy kollaterale sekuriteit deur of ten behoeve van die verbandewer ten gunste van die bouvereniging gegee word.

(4) 'n Permanente bouvereniging kan daardie deel van sy fondse wat nie as reserwesaldo by die Reserwebank gehou word of in die vorm van 'n bate wat as 'n likwiede bate geld, belê is of vir 'n doel genoem in subartikels (1) en (4) (a) van artikel 27 of vir die doel vermeld in subartikel (1) gebruik of in stand gehou moet word nie, gebruik om

**(5) A permanent building society—**

(a) which is not registered as a public company with equity share capital in terms of the Companies Act, 1973 (Act 61 of 1973), shall not invest a portion of its funds in shares of a banking institution;

(b) may use an amount equal to 5 per cent of the building society's total liabilities to the public for the granting of loans to natural persons for personal, family or household purposes.

(6) The total amount owing to a building society in respect of loans and advances granted by the building society after the commencement of this Act on the security of a mortgage bond over urban immovable property purchased by members of the public from a property development company which is a subsidiary or an affiliated company of the building society, shall not exceed an amount equal to 5 per cent of the building society's total liabilities to the public.

(7) Nothing contained in this section prohibits a building society which is registered as a public company with equity share capital in terms of the Companies Act, 1973 (Act 61 of 1973), from registering, with the approval of the Registrar of Banks, a banking institution as a subsidiary of the building society or from acquiring an interest in a banking institution.

(8) A building society shall furnish such particulars as may be prescribed by regulation, in respect of the redeemable preference shares and advances referred to in subsection (4), in the statement which the building society is required to furnish to the Registrar in terms of section 17 (1) (b).

**Investment of funds**

28. (1) A permanent building society shall invest or hold available for immediate investment in advances or readvances on the security of mortgage bonds of urban immovable property on which a dwelling house has been or is being erected or which is reserved for the erection of a dwelling house, an amount equal to at least 80 per cent of such portion of its funds as is not held as a reserve balance by the Reserve Bank or in a form of an asset ranking as a liquid asset or used for the purpose mentioned in subsections (1) and (4) (a) of section 27.

(2) A permanent building society shall not, in the case of a reducible mortgage of immovable property referred to in subsection (1), advance more than 90 per cent of the value reasonably determined of the property or the right of leasehold hypothecated or the lease or licence ceded, unless collateral security is furnished by or on behalf of the mortgagor in favour of the building society.

(3) A permanent building society shall not, in the case of a fixed term mortgage of immovable property referred to in subsection (1), advance more than 80 per cent of the value reasonably determined of the property or the right of leasehold hypothecated or the lease or licence ceded as security for the advance, unless collateral security is furnished by or on behalf of the mortgagor in favour of the building society.

(4) A permanent building society may use that portion of its funds as is not held as a reserve balance by the Reserve Bank or in the form of an asset ranking as a liquid asset or is not used or maintained for the purpose mentioned in subsections (1) and (4) (a) of section 27 or for the purpose set forth

voorskotte of hervoorskotte te maak teen sekuriteit van verbande op stedelike vaste eiendom wat vir besigheidsdoelendes gebruik word of staan te word: Met dien verstande dat 'n bouvereniging nie—

- (i) geld voorskiet teen sekuriteit van 'n verband op vaste eiendom wat vir nywerheidsdoeleindes gebruik word nie; en
  - (ii) 'n voorskot van meer as 80 persent van die redelike vasgestelde waarde van 'n eiendom wat vir besigheidsdoeleindes gebruik word, toestaan nie.
- (5) Waar kollaterale sekuriteit deur of ten behoeve van 'n verbandewer gestel word mag 'n bouvereniging hoogstens—

- (a) 'n bedrag gelykstaande aan die redelike vasgestelde waarde van die verhipotekeerde eiendom of reg van huurpag of oorgedraagte huurkontrak of lisensie wat as sekuriteit vir 'n voorskot dien; of
- (b) 'n bedrag gelykstaande aan die som van—
  - (i) die totale bedrag wat ingevolge subartikel (2), (3) of (4), na gelang van die geval, voorgeskiet mag word; en
  - (ii) die waarde van die kollaterale sekuriteit bereken volgens die voorskrif van subartikel (6) watter bedrag ook al die kleinste is aan 'n verbandewer voorskiet.
- (6) By die berekening, vir die doeindes van subartikel (5), van die waarde van enige kollaterale sekuriteit verstrek, word daardie waarde, indien die kollaterale sekuriteit—
  - (a) uit by die vereniging gedeponeerde kontant bestaan, teen die volle aldus gedeponeerde bedrag geneem;
  - (b) uit 'n belegging by 'n ander permanente bouervereniging of 'n bankinstelling bestaan, teen die volle bedrag van die belegging geneem;
  - (c) uit 'n lewensversekeringspolis bestaan, teen die afkoopwaarde van die polis geneem;
  - (d) uit 'n bankgaransie, 'n versekeraarsgaransiepolis of enige ander vir die vereniging aanneemlike vorm van garansie of borgtug bestaan, teen die volle gegarandeerde bedrag geneem;
  - (e) uit effekte bestaan wat op die Johannesburgse Effektebeurs genoteer is, en nie deur die Regering van die Republiek, 'n plaaslike bestuur in die Republiek, die Randwaterraad of die Elektrisiteitsvoorsieningskommisie uitgegee is, teen 50 persent van die jongste prys waarteen die effekte op bedoelde Beurs verhandel is geneem;
  - (f) uit effekte bestaan wat deur die Regering van die Republiek, 'n plaaslike bestuur in die Republiek, die Randwaterraad of die Elektrisiteitsvoorsieningskommisie uitgegee is, en wat op die Johannesburgse Effektebeurs genoteer is, teen 90 persent van die jongste prys waarteen bedoelde effekte op die Johannesburgse Effektebeurs verhandel is geneem.

#### **Likwiede bates mag nie verpand of beswaar word nie**

29. Geen deel van die bates wat die likwiede bates uitmaak wat 'n bouvereniging ingevolge hierdie Wet moet besit en in stand hou, mag verpand of andersins beswaar word nie: Met dien verstande dat, as die Minister daarvan oortuig is dat besondere omstandighede sodanige optrede nodig maak, hy enige bouvereniging van die bepalings van hierdie artikel kan vrystel, en wel op die voorwaardes en in die mate en vir die tydperk wat hy bepaal.

#### **Waardering van effekte**

30. Vir die doeindes van artikel 21 word effekte teen hul markwaarde, soos by regulasie voorgeskryf, gewaardeer.

in subsection (1), for the granting of advances and readvances on the security of mortgage bonds of urban immovable property used or to be used for business purposes: Provided that a building society shall not—

- (a) advance money on the security of a mortgage bond over immovable property which is used for industrial purposes; and
- (b) grant a loan of more than 80 per cent of the value reasonably determined of a property which is used for business purposes.

(5) Where collateral security is provided by or on behalf of a mortgagor, a building society may advance to such mortgagor not more than—

- (a) an amount equal to the value reasonably determined of the property or the right of leasehold hypothecated or the lease or licence ceded as security for the advance; or
- (b) an amount equal to the sum of—
  - (i) the maximum amount which may be advanced in terms of subsection (2), (3) or (4), as the case may be; and
  - (ii) the value of the collateral security determined in accordance with the provisions of subsection (6),

whichever amount is the smaller.

(6) In calculating for the purposes of subsection (5) the value of any collateral security furnished, that value shall, if the collateral security—

- (a) consists of cash deposited with the society, be taken at the full amount so deposited;
- (b) consists of a deposit with another permanent society or a banking institution, be taken at the full amount of the deposits;
- (c) consists of a life insurance policy, be taken at the surrender value of the policy;
- (d) consists of a bank guarantee, an insurer's guarantee policy or any other form of guarantee or suretyship acceptable to the society, be taken at the full amount guaranteed;
- (e) consists of securities other than securities issued by the Government of the Republic, a local authority in the Republic, the Rand Water Board or the Electricity Supply Commission, and listed on the Johannesburg Stock Exchange, be taken at 50 per cent of the last price at which the securities were traded in on the said Exchange;

(f) consists of securities, issued by the Government of the Republic, a local authority in the Republic, the Rand Water Board or the Electricity Supply Commission, and listed on the Johannesburg Stock Exchange, be taken at 90 per cent of the last price at which the securities were traded in on the said Exchange.

#### **Liquid assets may not be pledged or encumbered**

29. No portion of the assets constituting the liquid assets which a building society is, in terms of this Act, required to hold and maintain, shall be pledged or otherwise encumbered: Provided that the Minister may exempt any building society from the provisions of this section on such conditions and to such an extent and for such a period as he may determine, if he is satisfied that special circumstances demand such action.

#### **Valuation of securities**

30. For the purpose of section 21 securities shall be valued at their market value as prescribed by regulation.

**Besonderhede wat aangegee moet word by vermelding van 'n bouvereniging se kapitaal**

31. 'n Bouvereniging mag nie 'n verklaring publiseer of 'n dokument uitrek nie waarin vermeld word—

(a) sy gemagtigde kapitaal, tensy die verklaring ook die bedrag van die vereniging se geplaaste kapitaal vermeld; of

(b) sy geplaaste kapitaal, tensy die verklaring ook die bedrag van die vereniging se gestorte kapitaal vermeld.

**Verbot op koop van en lenings teen aandele van 'n bouvereniging**

32. Na registrasie ingevolge die Maatskappywet, 1973 (Wet 61 van 1973), mag 'n bouvereniging nie sy eie aandele koop of geld teen sekerheid van sy eie aandele uitleen of, met die doel om die verkoop van sy eie aandele te bevorder, lenings sonder onderpand of lenings teen onderpand wat na die oordeel van die Registrateur onvoldoende is, verstrek nie.

**Filiaal van bouvereniging**

33. 'n Bouvereniging mag nie 'n filiaalmaatskappy stig of verkry nie tensy die skriftelike goedkeuring van die Registrateur vooraf verkry is.

**Openbaarmaking van bouvereniging se belang in sy filiaalmaatskappye, en dié van beherende maatskappy in bouvereniging**

34. Die Minister kan by regulasie voorskryf dat 'n bouvereniging die besonderhede wat die Minister bepaal, ten opsigte van enige belegging van die bouvereniging in aandele van sy filiaalmaatskappye, en ten opsigte van enige belegging in sy aandele deur sy beherende maatskappy moet verstrek in die staat wat die bouvereniging ingevolge artikel 17 (1) (b) aan die Registrateur moet verstrek.

**Bouverenigings en bouverenigingbeheermaatskappye mag nie sekere soorte aandele uitrek of regstreer nie**

35. (1) 'n Bouvereniging of bouverenigingbeheermaatskappy reik nie toonandaale of aandele sonder parawaarde uit nie en reik nie voorkeuraandele uit sonder die Registrateur se skriftelike goedkeuring en anders as op die voorwaardes wat hy bepaal nie.

(2) 'n Bouvereniging of bouverenigingbeheermaatskappy regstreer nie aandele in hom op naam van 'n genoemde nie, behalwe in onderstaande gevalle:

(a) Op naam van die trustee van 'n effektetrustskema wat kragtens die Wet op Beheer van Effektetrustskemas, 1981 (Wet 54 van 1981), geregistreer is, of die genomineerde maatskappy van genoemde trustee wat deur die Registrateur van Effektetrustmaatskappye goedgekeur is;

(b) op naam van die eksekuteur, administrateur, kurator, trustee of voog ten opsigte van die boedel van 'n oorlede aandeelhouer van die bouvereniging of bouverenigingbeheermaatskappy of van 'n aandeelhouer wie se boedel gesekwestreer is of van 'n aandeelhouer wat andersins handelingsbevoeg is, of die likwidator van 'n regspersoon in die proses van likwidasie wat 'n aandeelhouer van die bouvereniging of bouverenigingbeheermaatskappy is;

(c) vir 'n tydperk van ses maande op naam van 'n effektmakelaar of van 'n maatskappy wat deur hom beheer word of van 'n maatskappy wat deur 'n bouvereniging beheer word of van 'n amptenaar van daardie bouvereniging, indien dit nodig is dat die aandele oorgedra word ten einde lewering aan die koper te vergemaklik of die regte van die voordeeltrekende eienaar van die aandele te beskerm of waar die voordeeltrekende eienaar van die aandele nie bekend is nie;

(d) waar die Registrateur sodanige registrasie skriftelik

**Particulars to be given with a statement of capital**

31. A building society shall not publish any statement or issue any document on which is printed any statement—

(a) of its authorised capital, unless the statement also sets forth the amount of the society's subscribed capital; or

(b) of its subscribed capital, unless the statement also sets forth the amount of the society's paid-up capital.

**Prohibition of purchase of and loans on shares of building societies**

32. After registration in terms of the Companies Act, 1973 (Act 61 of 1973), a building society shall not purchase its own shares or lend money on the security of its own shares, or, for the purpose of furthering the sale of its own shares, grant unsecured loans or loans against security which in the opinion of the Registrar is inadequate.

**Subsidiary of building society**

33. A building society shall not establish or acquire a subsidiary company unless the prior written authority of the Registrar has been obtained.

**Disclosure of building society's interest in its subsidiary companies, and that of controlling company in building society**

34. The Minister may by regulation prescribe that a building society shall furnish the particulars which the Minister determines, in respect of any investment of the building society in shares of its subsidiary companies and in respect of any investment in its shares by its controlling company, in the statement which the building society is required to furnish to the Registrar in terms of section 17 (1) (b).

**Building societies and building society controlling companies may not issue or register certain types of shares**

35. (1) A building society or building society controlling company shall not issue bearer shares or shares without par value, and shall not issue preference shares without the written approval of the Registrar and otherwise than on the conditions determined by him.

(2) A building society or building society controlling company shall not register shares in it in the name of a nominee except in the following cases:

(a) In the name of the trustee of a unit trust scheme registered in terms of the Unit Trusts Control Act, 1981 (Act 54 of 1981), or the nominee company of the said trustee which has been approved by the Registrar of Unit Trust Companies;

(b) in the name of the executor, administrator, curator, trustee or guardian in respect of the estate of a deceased shareholder of the building society or building society controlling company or of a shareholder whose estate has been sequestrated or of a shareholder who is otherwise incapable of contracting, or the liquidator of a juristic person in the process of liquidation, which is a shareholder of the building society or building society controlling company;

(c) for a period of six months in the name of a stockbroker or of a company controlled by him or of a company controlled by a building society or of an officer of that building society, if it is necessary that the shares be transferred in order to facilitate delivery to the purchaser or to protect the rights of the beneficial owner of the shares or where the beneficial owner of the shares is not known;

(d) where the Registrar has approved such registration in writing.

**Inligting wat aandeelhouers moet verskaf**

36. 'n Persoon op wie se naam aandele in 'n bouvereniging of 'n bouverenigingbeheermaatskappy geregistreer is of gaan word of iemand wat namens hom optree, moet op versoek van die betrokke bouvereniging of bouverenigingbeheermaatskappy dié inligting verstrek wat nodig is ten einde vir die doeleindes van hierdie Wet te kan bepaal of daardie persoon—

- (a) die voordeeltrekkende aandeelhouer is;
- (b) 'n buitelandse aandeelhouer is;
- (c) 'n geassosieerde van 'n ander aandeelhouer van die bouvereniging of bouverenigingbeheermaatskappy, na gelang van die geval, is.

**Klassifisering van aandeelhouers**

37. Waar die totale nominale waarde van die aandele in 'n bouvereniging of 'n bouverenigingbeheermaatskappy wat op naam van 'n bepaalde persoon geregistreer is, tesame met dié van enige aandele wat aan hom uitgereik of oorgedra gaan word (indien daar is), minder is as R25 000 of 'n bedrag wat 1 persent van die totale nominale waarde van al die uitgereikte aandele van die bouvereniging of bouverenigingbeheermaatskappy na gelang van die geval, verteenwoordig, watter ook al die kleinste is, kan die bouvereniging of bouverenigingbeheermaatskappy vir die doeleindes van hierdie Wet aanvaar, tensy hy van die teendeel bewus is, dat die betrokke persoon—

- (a) indien sy aangetekende adres 'n adres binne die Republiek is, nie 'n buitelandse aandeelhouer is nie; en
- (b) nie 'n geassosieerde van 'n ander aandeelhouer van die bouvereniging of bouverenigingbeheermaatskappy, na gelang van die geval, is nie.

**Optrede te goeder trou nie strafbaar nie**

38. Waar 'n bouvereniging of bouverenigingbeheermaatskappy of 'n direkteur, beampte, werknemer of agent van 'n bouvereniging of bouverenigingbeheermaatskappy te goeder trou op grond van inligting redelikerwys verkry, handel of versuum om te handel en daardeur onwetend 'n bepaling van artikel 35 (2) of 39 oortree, is hy nie daardeur skuldig aan 'n misdryf nie, maar niemand mag persoonlik of by volmag die stemreg ten opsigte van enige aandeel wat na die inwerkingtreding van hierdie Wet strydig met die bepaling van artikel 35 (2) of 39 geregistreer is, uitoefen nie.

**Beperking op aandelebesit en aandeeldeposito's in 'n bouverenigingbeheermaatskappy**

39. (1) Behoudens die bepaling van subartikels (2) en (3) van hierdie artikel en van artikels 37 en 40 registreer 'n bouvereniging of bouverenigingbeheermaatskappy nie aandele in hom nie op naam van 'n ander persoon as 'n bouverenigingbeheermaatskappy, behalwe vir sover die totale nominale waarde van die aandele wat geregistreer gaan word tesame met dié wat reeds geregistreer is op die naam van sodanige ander persoon en sy geassosieerde, nie 10 persent, van die totale nominale waarde van al die uitgereikte aandele in die bouvereniging of bouverenigingbeheermaatskappy oorskry nie.

(2) Die Minister kan in besondere gevalle waar hy oortuig is dat dit in die openbare belang wenslik is, 'n bouvereniging of bouverenigingbeheermaatskappy skriftelik magtig om vir 'n tydperk van hoogstens vyf jaar en op die voorwaardes en in die mate wat die Minister bepaal, die persentasies in subartikel (1) vermeld te oorskry ten opsigte van binnelandse aandeelhouers.

**Information to be furnished by shareholders**

36. A person in whose name shares in a building society or building society controlling company are registered or to be registered or a person acting on his behalf, shall at the request of the building society or building society controlling company concerned furnish such information as is necessary to determine for the purposes of this Act, whether the first-mentioned person is—

- (a) the beneficial shareholder;
- (b) a foreign shareholder;
- (c) an associate of any other shareholder of the building society or the building society controlling company, as the case may be.

**Classification of shareholders**

37. Where the total nominal value of shares in a building society or building society controlling company which are registered in the name of a particular person, together with that of any shares which are to be issued or transferred to him, if any, is less than R25 000 or an amount which represents 1 per cent of the total nominal value of all the issued shares of the building society or building society controlling company, as the case may be, whichever is the smaller, the building society or building society controlling company may, for the purposes of this Act accept, unless it is otherwise informed, that the person concerned—

- (a) if his recorded address is an address in the Republic, is not a foreign shareholder; and
- (b) is not an associate of any other shareholder of the building society or building society controlling company, as the case may be.

**Bona fide action not punishable**

38. Where a building society or building society controlling company or a director, officer, employee or agent of a building society or building society controlling company *bona fide* acts or fails to act, on the strength of information reasonably obtained, and thereby unknowingly contravenes a provision of section 35 (2) or 39, he shall not thereby be guilty of an offence, but no person shall, personally or by proxy, exercise the voting rights in respect of any share which was registered in conflict with the provisions of section 35 (2) or 39 after the commencement of this Act.

**Limitation of shareholding in a building society and building society controlling company**

39. (1) Subject to the provisions of subsections (2) and (3) of this section and of sections 37 and 40 a building society or a building society controlling company, shall not register shares in it in the name of a person other than a building society controlling company except in so far as the total nominal value of the shares which are to be registered together with those which are already registered in the name of such person and his associates does not exceed 10 per cent, of the total nominal value of all the issued shares in the building society or building society controlling company.

(2) The Minister may, in special cases where he is satisfied that it is desirable in the public interest, authorise a building society or building society controlling company in writing to exceed the percentages mentioned in subsection (1) in respect of domestic shareholders for a period of not more than five years on the conditions and to the extent determined by the Minister.

(3) Aandele wat oorgedra is aan die eksekuteur, administrator, kurator, trustee of voog ten opsigte van die boedel van 'n oorlede aandeelhouer van die bouvereniging of bouverenigingbeheermaatskappy of van 'n aandeelhouer wie se boedel gesekwestreer is of van 'n aandeelhouer wat andersins handelingsonbevoeg is, of die likwidateur van 'n regpersoon in die proses van likwidasie, wat 'n aandeelhouer van die bouvereniging of bouverenigingbeheermaatskappy is, word nie geag geregistreer te wees op naam van die aandeelhouer *nomine officii* nie maar word geag afsonderlik op naam van die onderskeie begunstigdes geregistreer te wees: Met dien verstande dat in die geval waar so 'n aandeelhouer *nomine officii* vanweë die stemkrag verbonde aan die aandele op sy naam geregistreer, in staat is om die bouvereniging of bouverenigingbeheermaatskappy te beheer, die stemkrag wat hy ten opsigte van alle aandele onder sy beheer kan uitoefen, ondanks enige andersluidende bepalings van hierdie of 'n ander wet, beperk is tot 10 per cent van die stemme verbonde aan al die uitgereikte aandele van die bouvereniging of bouverenigingbeheermaatskappy.

#### **Samesmelting en oordrag van bates en laste**

40. (1) Twee of meer bouverenigings kan met die skriflike goedkeuring van die Registrateur saamsmelt en een bouvereniging vorm, en 'n bouvereniging kan met dergelike goedkeuring al sy bates en laste aan 'n ander vereniging oordra.

(2) Die voorgestelde bedinge en voorwaardes van 'n samesmelting of oordrag ingevolge subartikel (1) moet vooraf voorgelê word aan die Registrateur wat, met inagneming van die bepalings van paragrawe (a) en (b) van subartikel (3), die betrokke voorstel moet goedkeur soos opgestel of met die wysigings wat hy nodig ag.

(3) Geen transaksie wat die samesmelting van verenigings of die oordrag van bates en laste van een vereniging aan 'n ander behels, is van krag nie, tensy—

(a) die Registrateur oortuig is dat dié transaksie nie mededinging tussen bouverenigings of die openbare belang op enige wyse nadelig sal raak nie;

(b) die ooreenkoms uitdruklik bepaal dat daar geen verdeling van die winste of van enige van die reserwes van die betrokke verenigings tussen hulle lede mag plaasvind nie, maar hierdie paragraaf word nie uitgelê asof dit belet dat redelike voorsiening uit die winste van 'n vereniging gemaak word vir vergoeding aan sy amptenare (behalwe direkteure, plaasvervangende direkteure, plaaslike direkteure of lede van plaaslike komitees) vir enige gevoldlike ampsverlies of vir betaling ter erkenning van dienste deur sodanige amptenare in die verlede gelewer nie;

(c) die bepalings van die ooreenkoms vir die beoogde samesmelting of oordrag deur elkeen van die betrokke verenigings by spesiale besluit bekratig word.

(4) Die kennisgewing waarby 'n buitengewone algemene vergadering vir die bekratiging van so 'n samesmelting of oordrag byeengeroep word, moet die volledige bedinge en voorwaardes van die betrokke ooreenkoms bevat of daarby aangeheg wees.

(5) 'n Kennisgewing dat 'n spesiale besluit aangaande sodanige samesmelting of oordrag geneem is, moet deur elkeen van die betrokke verenigings aan die Registrateur gestuur word, tesaam met 'n afskrif van die besluit en die volledige bedinge en voorwaardes van die voorgestelde samesmelting of oordrag wat behoorlik deur die hoofuitvoerende beampete van die betrokke vereniging gesertifiseer is, en so 'n kennisgewing word deur die Registrateur goedgekeur indien hy oortuig is dat aan die voorskrifte van subartikels (3) en (4) voldoen is.

(3) Shares which are transferred to the executor, administrator, curator, trustee or guardian in respect of the estate of a deceased shareholder of the building society or building society controlling company or of a shareholder whose estate has been sequestered or of a shareholder who is otherwise incapable of contracting or the liquidator of a corporate body in the process of liquidation, which is a shareholder of the building society or building society controlling company, shall not be deemed to be registered in the name of the shareholder *nomine officii* but shall be deemed to be registered separately in the name of the various beneficiaries: Provided that in the case where such a shareholder *nomine officii*, owing to the voting power attached to shares registered in his name, is able to control the building society or building society controlling company, the voting power which he can exercise in respect of all the shares under his control shall, notwithstanding anything to the contrary contained in this Act or any other law, be limited to 10 per cent of the votes attached to all the issued shares of the building society or building society controlling company.

#### **Amalgamation and transfer of assets and liabilities**

40. (1) Two or more societies may with the written approval of the Registrar amalgamate and become one society, and a society may with like approval transfer all its assets and liabilities to another society.

(2) The proposed terms and conditions of an amalgamation or transfer in terms of subsection (1) shall be submitted in advance to the Registrar who shall, subject to the provisions of paragraphs (a) and (b) of subsection (3), approve of the proposal in question as drafted or with such modifications as he may deem necessary.

(3) No transaction involving the amalgamation of societies or the transfer of assets and liabilities from one society to another shall be of any force or effect unless—

(a) the Registrar is satisfied that such transaction will not affect competition between building societies or the public interest adversely in any manner;

(b) the agreement specifically provides that there shall be no division of the profits or of any of the reserves of the societies concerned among their members, but nothing in this paragraph shall be construed as preventing the making of reasonable provision out of the profits of a society for compensation to its officers (other than directors, alternate directors, local directors or members of local committees) for any resulting loss of office or for payment in recognition of past services rendered by such officers;

(c) the provisions of the agreement for the contemplated amalgamation or transfer are confirmed by special resolution by each of the societies concerned.

(4) The notice convening a special general meeting for the confirmation of any such amalgamation or transfer shall contain or have attached to it the complete terms and conditions of the relevant agreement.

(5) Notice of the passing of the special resolution concerning such amalgamation or transfer, together with a copy of such resolution and the full terms and conditions of the proposed amalgamation or transfer duly certified by the chief executive officer of the society concerned, shall be sent by each of the societies affected to the Registrar and shall be approved by him if he is satisfied that the provisions of subsections (3) and (4) have been complied with.

(6) Die samesmelting of oordrag moet geskied op die bedinge en voorwaarde in sodanige besluit uitgeengesit.

(7) By goedkeuring deur die Registrateur van die ter sake dienende kennisgewings—

(a) van so 'n samesmelting, word die individuele vereenigings wat partye by die transaksie was, geag ontbind te wees en word hul registrasie gekanselleer deur die Registrateur wat terselfdertyd die nuwe vereniging ingevolge hierdie Wet in hul plek regstreer;

(b) van so 'n oordrag, word die vereniging wie se bates en laste aan oordrag onderworpe is, geag ontbind te wees en word sy registrasie deur die Registrateur gekanselleer.

(8) Die likwidator van 'n vereniging wat vrywilliglik of deur die hof gelikwideer word of die geregtelike bestuurder van 'n vereniging, kan al die bates en laste van die vereniging wat gelikwideer word of onder geregtelike bestuur is, aan 'n ander vereniging oordra: Met dien verstande dat die bepalings van paragraaf (c) van subartikel (3) en subartikel (4) nie van toepassing is op 'n vereniging wat gelikwideer word nie.

(9) By die goedkeuring deur die Registrateur van die kennisgewing van die samesmelting van twee of meer vereenigings of van die oordrag van die bates en laste van 'n vereniging aan 'n ander vereniging—

(a) gaan al die bates en laste van die samesmeltende bouvereniging of (in die geval van 'n oordrag van bates en laste) van die bouvereniging wat die oordrag gee, oor op en word dit bindend vir die samegesmelte bouvereniging of, na gelang van die geval, die bouvereniging wat bedoelde bates en laste oorneem;

(b) het die samegesmelte vereniging of (in die geval van 'n oordrag van bates en laste) die bouvereniging wat bedoelde bates en laste oorneem, dieselfde regte en is hy onderworpe aan dieselfde verpligtings as wat onmiddellik voor die samesmelting of oordrag by die samesmeltende bouvereniging of, na gelang van die geval, die bouvereniging wat die oordrag gegee het, berus het of daarvoor bindend was;

(c) bly alle ooreenkomste, aanstellings, transaksies en stukke gemaak, aangegaan, opgestel of verly deur, met of ten gunste van enigeen van die samesmeltende bouverenigings of, na gelang van die geval, die bouvereniging wat die oordrag gegee het, en van krag onmiddellik voor die samesmelting of oordrag, ten volle van krag, en word dit vir alle doeleindes uitgelê asof dit deur, met of ten gunste van die samegesmelte bouvereniging of, na gelang van die geval, die bouvereniging wat die betrokke bates en laste oorneem, gemaak, aangegaan, opgestel of verly was; en

(d) bly enige verbandakte, verpanding, waarborg of ander dokument vir die dekking van toekomstige voor-skotte, faciliteite of dienste deur enigeen van die samesmeltende bouverenigings of, na gelang van die geval, die bouvereniging wat bedoelde bates en laste oordra, wat onmiddellik voor die samesmelting of oordrag van krag was, ten volle van krag, en word dit uitgelê as 'n verbandakte, verpanding, waarborg of dokument gegee aan of ten gunste van die samegesmelte bouvereniging of, na gelang van die geval, die bouvereniging wat bedoelde bates en laste oorneem, tot dekking van toekomstige voorskotte, faciliteite of dienste deur daardie bouvereniging.

(10) Die Registrateur van Maatskappye, elke Registrateur van Aktes of Meester van die Hooggereghof en elke amptenaar aan die hoof van 'n kantoor waarin geregistreer is 'n titelbewys van eiendom behorende aan, of 'n verbandakte of ander reg ten gunste van, of 'n aanstelling van of deur, of waarin 'n lisensie, behalwe 'n lisensie kragtens artikel 174

(6) The amalgamation or transfer shall take place upon the terms and conditions set forth in such resolution.

(7) Upon the approval by the Registrar of the appropriate notices—

(a) of any such amalgamation, the individual societies who were parties to the transaction shall be deemed to be dissolved and the Registrar shall cancel their registration and at the same time and in their stead register the new society in terms of this Act;

(b) of any such transfer, the society whose assets and liabilities are subject to transfer shall be deemed to be dissolved and its registration shall be cancelled by the Registrar.

(8) The liquidator of a society which is being wound up voluntarily or by the court or the judicial manager of a society may transfer all the assets and liabilities of the society being wound up or under judicial management to another society: Provided that the provisions of paragraph (c) of subsection (3) and subsection (4) shall not apply to a society which is being wound up.

(9) Upon the approval by the Registrar of the notice of the amalgamation of two or more societies or of the transfer of the assets and liabilities of any society to another society—

(a) all the assets and liabilities of the amalgamating society or (in the case of a transfer of assets and liabilities) of the society by which the transfer is effected, shall vest in and become binding upon the amalgamated society or, as the case may be, the society taking over such assets and liabilities;

(b) the amalgamated society or (in the case of a transfer of assets and liabilities) the society taking over such assets and liabilities, shall have the same rights and be subject to the same obligations as were immediately before the amalgamation or transfer possessed by or binding upon the amalgamating society or, as the case may be, the society by which the transfer has been effected;

(c) all agreements, appointments, transactions and documents made, entered into, drawn or executed by, with or in favour of any of the amalgamating societies or, as the case may be, the society by which the transfer has been effected, and in force immediately prior to the amalgamation or transfer, shall remain of full force and effect and shall be construed for all purposes as if they had been made, entered into, drawn or executed by, with or in favour of the amalgamated society or, as the case may be, the society taking over the assets and liabilities in question; and

(d) any bond, pledge, guarantee or other instrument to secure future advances, facilities or services by any of the amalgamating societies or, as the case may be, by the society transferring such assets and liabilities, which was in force immediately prior to the amalgamation or transfer shall remain of full force and effect and shall be construed as a bond, pledge, guarantee or instrument given to or in favour of the amalgamated society or, as the case may be, the society taking over such assets and liabilities, as security for future advances, facilities or services by that society.

(10) The Registrar of Companies, every Registrar of Deeds or Master of the Supreme Court and every officer in charge of an office in which is registered any title to property belonging to, or any bond or other right in favour of, or any appointment of or by, or in which has been issued any licence, other than a licence in terms of section 174 of the

van die Maatskappywet, 1973 (Wet 61 van 1973), uitgereik is aan of ten gunste van 'n bouvereniging wat met 'n ander sodanige vereniging saamgesmelt het of 'n bouvereniging wat al sy bates en laste aan 'n ander sodanige vereniging oorgedra het, moet, nadat hy oortuig is dat die Registrateur sy toestemming ingevolge subartikel (1) tot die samesmelting of oordrag verleen het, en dat bedoelde samesmelting of oordrag behoorlik geskied het, en by voorlegging aan hom van 'n tersaaklike akte, verbandakte, sertifikaat, aansellingsbrief, lisensie of ander dokument, sodanige endossemente daarop maak en sodanige veranderings in sy registers aanbring as wat nodig is om die oordrag daarvan en van enige regte daarkragtens aan die samegesmelte vereniging of, na gelang van die geval, die bouvereniging wat bedoelde bates en laste aldus oorgeneem het, te boekstaaf, en geen hereregtre, seërlregte, registrasie-, lisensie- of ander gelde is ten opsigte van die oordrag of 'n endossement of verandering aldus gemaak ten einde daaraan gevvolg te gee, betaalbaar nie.

(11) Die bepalings van hierdie artikel raak nie die regte van 'n skuldeiser van 'n bouvereniging wat met 'n ander sodanige vereniging saamgesmelt het of al sy bates en laste aan 'n ander sodanige vereniging oorgedra het of al die bates en laste van 'n ander sodanige vereniging oorgeneem het nie, behalwe vir sover hierin vermeld.

#### **Oordrag van deel van 'n bouvereniging se sake**

41. (1) 'n Permanente bouvereniging kan met die skrifte-like toestemming van die Registrateur en op die voorwaardes wat hy bepaal, dié gedeelte van sy besigheid wat in 'n bepaalde gebied gedryf word en wat 'n ondergeskikte deel van sy totale besigheid uitmaak, oordra aan 'n ander permanente vereniging of aan enige ander instelling deur die Registrateur vir dié doel goedgekeur.

(2) Wanneer 'n bouvereniging voornemens is om 'n gedeelte van sy besigheid ingevolge subartikel (1) oor te dra verstrek hy aan die Registrateur 'n opgawe waarin hy tot bevrediging van die Registrateur al sy bates en laste en, afsonderlik, die bates en laste wat hy voornemens is om oor te dra, uiteensit, asook 'n afskrif van die ooreenkoms waarin die voorgestelde bedinge en voorwaardes van die oordrag vervat is.

(3) Die bepalings van subartikels (2), (3), (4), (5), (6), (10) en (11) van artikel 40 is *mutatis mutandis* van toepassing met betrekking tot die bates en laste wat ingevolge subartikel (1) van hierdie artikel oorgedra word.

(4) Vir die doeleindes van 'n oordrag van bates en laste ingevolge hierdie artikel kan 'n vereniging wat 'n gedeelte van die bates en laste van 'n ander vereniging oorneem, skuldbrieve uitrek op die voorwaardes wat die Registrateur goedkeur, en kan laasbedoelde vereniging in sodanige skuldbrieve belê.

(5) Die Registrateur verleen nie sy toestemming tot die oordrag van 'n gedeelte van die bates en laste van 'n vereniging nie tensy—

(a) hy oortuig is, met inagneming van al die omstandighede, met inbegrip van enige vereistes ten opsigte van likwiede bates, die bepalings van artikels 27 en 28, en minimum kapitaal en reserwes, dat 'n redelike en billike verdeling van die bates, reserwes en ander verpligtings van die betrokke vereniging gemaak is met betrekking tot die oordrag van die betrokke gedeelte van sy besigheid; en

(b) die ooreenkoms in subartikel (2) bedoel, bepaal dat die vereniging wat 'n gedeelte van sy bates en laste oordra, van tyd tot tyd moet belê in effekte, skuldbrieve of aandele uitgereik deur die oordagnemende vereniging of

Companies Act, 1973 (Act 61 of 1973), to or in favour of, any building society which has amalgamated with any other such society or any building society which has transferred all its assets and liabilities to any other such society, shall, upon being satisfied that the Registrar has under subsection (1) consented to the amalgamation or transfer, and that such amalgamation or transfer has been duly effected, and upon the production to him of any relevant deed, bond, certificate, letter of appointment, licence or other document, make such endorsements thereon and effect such alterations in his registers as may be necessary to record the transfer thereof and of any rights thereunder to the amalgamated society or, as the case may be, the society which has so taken over the said assets and liabilities, and no transfer duty, stamp duty, registration fees, licence duty or other charges shall be payable in respect of the transfer or any endorsement or alteration so made to give effect thereto.

(11) The provisions of this section shall not affect the rights of any creditor of a building society which has amalgamated with or transferred all its assets and liabilities to any other such society or taken over all the assets and liabilities of any other such society, except to the extent provided herein.

#### **Transfer of part of a society's business**

41. (1) A permanent society may, with the written consent of the Registrar and on the conditions determined by him, transfer that part of its business which is conducted in a particular area and which constitutes a minor portion of its total business, to another permanent society or to any other institution approved for the purpose by the Registrar.

(2) When a society proposes to transfer part of its business in terms of subsection (1), it shall furnish to the Registrar a return setting forth to the satisfaction of the Registrar all its assets and liabilities and, separately, those assets and liabilities which it proposes to transfer, and also a copy of the agreement setting out the proposed terms and conditions of the transfer.

(3) The provisions of subsections (2), (3), (4), (5), (6), (10) and (11) of section 40 shall *mutatis mutandis* apply in relation to the assets and liabilities transferred in terms of subsection (1) of this section.

(4) For the purposes of the transfer of assets and liabilities in terms of this section a society which takes transfer of part of the assets and liabilities of another society may issue debentures on the conditions approved by the Registrar, and the last-mentioned society may invest in such debentures.

(5) The Registrar shall not give his consent to the transfer of part of the assets and liabilities of a society unless—

(a) he is satisfied, having regard to all the circumstances, including any statutory requirements in regard to liquid assets, the provisions of sections 27 and 28, and minimum capital and reserves, that a reasonable and fair division of the assets, reserves and other liabilities of the society concerned has been made with regard to the transfer of the relevant part of its business; and

(b) the agreement referred to in subsection (2) provides that the society transferring part of its assets and liabilities shall from time to time invest in stock, debentures or shares issued by the transferee society or institution, as the case may be, in order that such society or institution

instelling, na gelang van die geval, sodat so 'n vereniging of instelling deposito's wat eersbedoelde vereniging aan hom oorgedra het en wat op die eersvolgende verval datum daarvan ná die datum van genoemde oordrag van bates en laste ontrek word, kan terugbetaal, en, gedurende die tydperk deur die Registrateur goedgekeur en op die voorwaardes in die vermelde ooreenkoms uiteengesit, enige ander verpligting van eersbedoelde vereniging aldus oorgedra, kan nakom.

(6) By die registrasie deur die Registrateur van die kennisgewing van die oordrag van 'n gedeelte van die bates en laste van 'n vereniging aan 'n ander vereniging of 'n ander instelling, word die bates en laste oorgedra bates en laste van die oordagnemende vereniging of instelling, na gelang van die geval.

#### **Werknemers as direkteure**

42. Nie meer as een derde van die getal direkteure van 'n bouvereniging mag uit werknekmers van daardie vereniging bestaan nie: Met dien verstande dat toevallige vakatures nie by die toepassing van hierdie artikel in aanmerking geneem word nie.

#### **Wysiging van konstitusie of reglement van 'n bouvereniging**

43. (1) 'n Bouvereniging mag nie sy akte van oprigting of ander konstitusie of sy statute of ander reglement vir die uitvoering van sy bedryf verander nie, tensy hy 'n verklaring in tweevoud, wat deur sy hoof-uitvoerende beampete in die Republiek onderteken is en waarin volledige besonderhede betreffende die voorgestelde wysiging uiteengesit is, by die Registrateur ingedien het, en tensy die Registrateur sy toestemming daartoe verleen het: Met dien verstande dat die Registrateur nie sy toestemming tot so 'n wysiging mag verleen nie tensy hy hom daarvan oortuig dat die wysiging nie in stryd met hierdie Wet of enige ander wet is nie en nie om enige ander rede onwenslik is nie.

(2) Wanneer 'n bouvereniging 'n in subartikel (1) vermelde verandering wettig teweeggebring het, moet hy 'n verklaring in tweevoud, wat deur sy hoof-uitvoerende beampete in die Republiek onderteken is en waarin volledige besonderhede betreffende die verandering uiteengesit is, aan die Registrateur verskaf en moet hy die bedrag van R100 aan die Registrateur betaal, en die Registrateur moet daarop bedoelde verklaring registreer en op een afskrif daarvan 'n aantekening maak dat die voormalde verklaring geregistreer is en van die datum van registrasie, en daardie afskrif moet hy aan die bouvereniging terugbesorg: Met dien verstande dat die betrokke verandering nie van krag word nie voordat bedoelde verklaring op bogenoemde wyse geregistreer is.

(3) Waar 'n vereniging 'n bepaling in sy statute wysig, herroep of aanvul is so 'n wysiging, herroeping of aanvulling nie geldig nie—

- (a) indien dit inbreuk maak op 'n reg van 'n skuldeiser van die vereniging wat nie 'n lid daarvan is nie; of
- (b) indien dit teen 'n besondere persoon gerig is; of
- (c) indien dit die regte van lede by likwidasië wysig.

(4) Die bepaling van hierdie artikel veroorloof nie 'n verandering vermeld in subartikel (1) sonder nakoming van die voorskrifte van enige ander wet ten opsigte van so 'n verandering nie.

#### **Tydelike bouverenigings**

44. Behoudens die bepaling van artikel 5 (2), bly die bepaling van die Bouverenigingswet, 1965 (Wet 24 van 1965), wat onmiddellik voor inwerkingtreding van hierdie Wet op 'n tydelike bouvereniging van toepassing was, van krag en in werking totdat die registrasie van elke tydelike bouvereniging ingevolge artikel 5 (2) (b) verval het.

may repay deposits which the first-mentioned society transferred to it and which are withdrawn on the first maturity date subsequent to the date of the said transfer, and may redeem, during such period as the Registrar may approve and on the conditions set out in the said agreement, any other liability of the first-mentioned society so transferred.

(6) Upon the registration by the Registrar of the notice of the transfer of part of the assets and liabilities of any society to another society or other institution, the assets and liabilities transferred shall become assets and liabilities of the transferee society or institution, as the case may be.

#### **Employees as directors**

42. Not more than one third of the number of directors of a building society shall consist of employees of that society: Provided that casual vacancies shall not be taken into account for the purposes of this section.

#### **Alteration of constitution or rules of building society**

43. (1) A building society shall not alter its memorandums of association or other constitution or its articles of association or other rules for the conduct of its business, unless it has submitted to the Registrar a statement in duplicate, signed by its chief executive officer in the Republic, wherein are set forth full particulars of the proposed alteration, and the Registrar has consented thereto: Provided that the Registrar shall not consent to any such alteration unless he has satisfied himself that the alteration is not in conflict with this Act or any other law and is not undesirable for any other reason.

(2) When a building society has lawfully effected an alteration mentioned in subsection (1) it shall furnish the Registrar with a statement in duplicate, signed by its chief executive officer in the Republic, wherein are set forth full particulars of the alteration, and shall pay to the Registrar a fee of R100, and the Registrar shall thereupon register the said statement and endorse one copy thereof with a declaration that the statement has been registered and with the date of the registration, and he shall return that copy to the society concerned: Provided that the alteration in question shall not take effect until the said statement has been registered as aforesaid.

(3) Where a society alters, rescinds or adds to a provision of its rules, no such alteration, rescission or addition shall be valid—

- (a) if it purports to affect any right of a creditor of the society who is not a member thereof; or
- (b) if it is directed against any particular individual; or
- (c) if it purports to alter the rights of members in a winding-up.

(4) The provisions of this section shall not authorise any alteration referred to in subsection (1) without compliance with the requirements of any other law relating to any such alteration.

#### **Terminating building societies**

44. Subject to the provisions of section 5 (2) the provisions of the Building Societies Act, 1965 (Act 24 of 1965), which applied to a terminating building society immediately prior to the commencement of this Act, shall remain in force and effect until the registration of every terminating building society has terminated in the manner set forth in section 5 (2) (b).

**Lyste van direkteure en aandeelhouers van bouverenigings moet aan Registrateur verskaf word**

45. (1) 'n Bouvereniging wat as 'n publieke maatskappy met aandelekapitaal ingevolge die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is moet binne 'n tydperk van 90 dae vanaf die datum van sy registrasie of voorlopige registrasie ingevolge hierdie Wet, die Registrateur voorsien van twee afskrifte (wat deur die vereniging se hoof-uitvoerende beampete in die Republiek as juis gesertifiseer moet wees), van dié gedeelte van sy in subartikel (1) van artikel 215 van daardie Wet vermelde register wat betrekking het op enige wat 'n direkteur of bestuurder of sekretaris van die vereniging is op die dag waarop daardie afskrifte aan die Registrateur gestuur word en daarna moet die bouvereniging wanneer hy ook al ingevolge subartikel (2) van artikel 216 van daardie Wet aan die Registrateur van Maatskappye besonderhede verstrek, tegelykertyd twee afskrifte van die dokument wat daardie besonderhede bevat aan die Registrateur verstrek.

(2) 'n Bouvereniging wat as 'n maatskappy met aandelekapitaal kragtens die Maatskappywet, 1973 (Wet 61 van 1973), geregistreer is, moet binne 'n tydperk van 90 dae vanaf die datum van sy registrasie of voorlopige registrasie ingevolge hierdie Wet, en daarna binne 'n tydperk van 90 dae vanaf die eerste dag van iedere boekjaar van die vereniging of vanaf 'n ander datum wat die Registrateur ingevolge paragraaf (a) vasstel, die Registrateur van 'n lys voorsien, wat deur die instelling se hoof-uitvoerende beampete in die Republiek as juis gesertifiseer is, waarin, onder afsonderlike afdelings vir binnelandse en buitelandse aandeelhouers en met aanduiding van die totale nominale waarde van die aandele in elkeen van die afdelings, vermeld word—

(a) die name, in alfabetiese volgorde (maar met samegroepering van aandeelhouers wat geassosieerde van mekaar is), en die adresse van die aandeelhouers of lede van die vereniging aan die einde van die instelling se jongste voorafgaande boekjaar of op 'n ander datum wat die Registrateur op versoek van die vereniging bepaal, of, as die vereniging nog nie sy eerste boekjaar voltooi het op die datum waarop die lys soos vermeld voorsien word nie, op die dag van die bouvereniging se registrasie of voorlopige registrasie ingevolge hierdie Wet;

(b) die getal aandele, die nominale waarde van die aandele en die persentasie wat dit verteenwoordig van die totale nominale waarde van al die uitgereikte aandele van die bouvereniging, wat elke sodanige aandeelhouer of lid in die vereniging besit of enige ander belang wat hy daarby het;

(c) of die aandeelhouers 'n geregistreerde bankinstelling, bouvereniging, bouverenigingbeheermaatskappy, of 'n ander persoon is:

Met dien verstande dat 'n bouvereniging geag word die bepaling van hierdie subartikel na te gekom het ten opsigte van 'n binnelandse aandeelhouer wat minder as 1 persent van die instelling se geplaaste kapitaal besit, en ten opsigte van 'n buitelandse aandeelhouer wat aandele in die instelling besit waarvan die nominale waarde minder is as R25 000 of 'n bedrag wat 1 persent van die nominale waarde van al die uitgereikte aandele van die bouvereniging verteenwoordig, watter ook al die kleinste is, indien die getal sodanige aandeelhouers asook die totale getal aandele wat deur hulle gehou word in die betrokke lys vermeld word.

**Lyste van direkteure en aandeelhouers van bouverenigingbeheermaatskappy moet aan Registrateur verskaf word**

46. 'n Geregistreerde bouverenigingbeheermaatskappy moet binne 90 dae vanaf sy registrasie en daarna binne 90 dae vanaf die eerste dag van iedere boekjaar van die

**Lists of directors and shareholders of building societies to be furnished to Registrar**

45. (1) A building society which is registered as a public company with equity share capital under the Companies Act, 1973 (Act 61 of 1973), shall, within a period of 90 days as from the date of its provisional registration or registration under this Act, furnish the Registrar with two copies (certified as correct by the society's chief executive officer in the Republic), of that part of its register mentioned in subsection (1) of section 215 of the said Act, which relates to any person who is a director or manager or secretary of the society on the date when the said copies are forwarded to the Registrar, and thereafter whenever the society furnishes particulars to the Registrar of Companies in terms of subsection (2) of section 216 of the said Act it shall simultaneously furnish the Registrar with two copies of the document containing such particulars.

(2) A building society which is registered as a company with equity share capital in terms of the Companies Act, 1973 (Act 61 of 1973), shall, within a period of 90 days as from the date of its registration or provisional registration under this Act, and thereafter within a period of 90 days as from the first day of every financial year of the society or as from such other date as the Registrar may in terms of paragraph (a) determine, furnish the Registrar with a list, certified as correct by the society's chief executive officer in the Republic, wherein, under separate sections for domestic and foreign shareholders and indicating the total nominal value of the share in each of the sections, are set forth—

(a) the names in alphabetical order (but with shareholders which are associates of one another grouped together) and the addresses of the shareholders of the society, as at the end of the society's last preceding financial year or as on such other date as the Registrar may at the request of the building society determine, or as on the date of the society's provisional registration or registration under this Act if on the day when the list is furnished as aforesaid the society has not completed its first financial year;

(b) the number of shares, the nominal value of the shares and the percentage it represents of the total nominal value of all the issued shares of the society or any other interest in the society held by every such shareholder;

(c) whether the shareholder is a registered banking institution, building society, a registered building society controlling company, or other person:

Provided that a society shall be deemed to have complied with the provisions of this subsection in respect of any domestic shareholder holding less than 1 per cent of the society's subscribed capital, and in respect of a foreign shareholder who holds shares in the society of which the nominal value is less than R25 000 or an amount representing 1 per cent of the nominal value of all the issued shares of the society, whichever is the smaller, if the number of such shareholders and the total number of shares held by them is set forth in the list in question.

**List of directors and shareholders of building society controlling company to be furnished to Registrar**

46. A registered building society controlling company shall within a period of 90 days as from its registration and thereafter within a period of 90 days as from the first day of

maatskappy die Registrateur voorsien van lyste soos in subartikels (1) en (2) van artikel 45 bedoel en gesertifiseer op die wyse in daardie subartikels beskryf.

#### Aanstelling van ouditeure

(1) (a) Die direksie van 'n bouvereniging stel binne drie maande vanaf die datum van die registrasie of voorlopige registrasie van daardie bouvereniging ingevolge hierdie Wet, 'n ouditeur aan vir die tydperk tot die einde van die eersvolgende jaarlike algemene vergadering van daardie bouvereniging.

(b) 'n Bouvereniging stel by elke jaarlike algemene vergadering, vir die tydperk vanaf die einde van daardie vergadering tot die einde van die volgende jaarlike algemene vergadering, minstens een ouditeur, en as die totale bates van die bouvereniging aan die einde van sy jongste voorafgaande boekjaar R2 000 000 oorskry het, minstens twee ouditeure wat onafhanklik van mekaar is, aan.

(c) Wanneer om die een of ander rede, behalwe die in subparagraaf (e) bedoel, 'n ouditeur van 'n bouvereniging sy amp ontruim voor die verstryking van die tydperk waarvoor hy aangestel is, stel die bouvereniging so spoedig doenlik 'n ouditeur aan vir die onverstreke gedeelte van daardie tydperk.

(d) Geen direkteur of werkneem van 'n bouvereniging en geen firma waarvan so 'n direkteur of werkneem 'n lid is, word as ouditeur van daardie bouvereniging aangestel nie.

(e) 'n Bouvereniging kan by 'n algemene vergadering waarvan aan 'n ouditeur ingevolge hierdie subartikel aangestel, op dieselfde wyse as aan lede van die bouvereniging kennis gegee is, so 'n ouditeur uit sy amp verwijder en moet, as enige sodanige ouditeur aldus verwijder word, in sy plek, vir die onverstreke gedeelte van die tydperk waarvoor die aldus verwijderde ouditeur aangestel is, 'n deur 'n lid van die bouvereniging genomineerde ouditeur aanstel, van wie se nominasie aan die lede van daardie bouvereniging minstens 14 dae voor die datum van daardie algemene vergadering kennis gegee is.

(f) 'n Bouvereniging doen binne 30 dae vanaf die datum van aanstelling ingevolge hierdie subartikel van 'n ouditeur, by die Registrateur aansoek in die by regulasie voorgeskreve vorm 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 of sy vorige goedkeuring van die aanstelling van 'n ouditeur intrek en daarop ontruim die betrokke ouditeur sy amp.

(2) As 'n bouvereniging of die direksie daarvan in gebreke bly om enige ouditeur aan te stel wat ingevolge subartikel (1) aangestel moet word, stel die Registrateur, teen die besoldiging deur hom vasgestel, so 'n ouditeur aan wat dan geag word deur daardie bouvereniging of direksie, na gelang van die geval, aangestel te gewees het.

(3) As die betrokke bouvereniging in gebreke bly om die besoldiging van enige ingevolge subartikel (2) aangestelde ouditeur te betaal, betaal die Registrateur daardie besoldiging uit staatsgeld en verhaal hy op daardie bouvereniging 'n bedrag gelykstaande aan daardie besoldiging.

(4) Op versoek van 'n ouditeur van 'n bouvereniging moet iedere direkteur of werkneem van die bouvereniging enige boek of dokument of enige inligting betreffende die bouvereniging of sy sake wat in sy besit is of tot sy beskikking staan en wat die ouditeur nodig ag om sy werksamehede as ouditeur van die bouvereniging te kan verrig, aan die ouditeur verstrek.

(5) Die ouditeur van 'n bouvereniging moet aan die vereening enige onreëlmaticheid of ongewenste praktyk by die uitoefening van die bouvereniging se bedryf, wat onder sy aandag gekom het, rapporteer, en as daardie onreëlmaticheid of ongewenste praktyk nie binne 'n tydperk van een

every financial year of the company furnish the Registrar with such lists as are referred to in subsections (1) and (2) of section 45, certified in the manner indicated in those subsections.

#### Appointment of auditors

(1) (a) The board of directors of a building society shall, within three months of the date of the registration or provisional registration of that building society under this Act, appoint an auditor for the period until the conclusion of the first succeeding annual general meeting of that building society.

(b) A building society 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 building society as at the close of its last preceding financial year exceeded R2 000 000, not less than two auditors who are independent of each other.

(c) Whenever for any reason, other than that referred to in paragraph (e), an auditor of a building society vacates his office prior to the expiration of the period for which he has been appointed, the building society shall as soon as may be appoint an auditor for the unexpired portion of that period.

(d) No director or servant of a building society and no firm of which any such director or servant is a member, shall be appointed as an auditor of that building society.

(e) A building society may at a general meeting, of which notice in the same manner as to members of the building society has been given to any auditor appointed under this subsection, 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 building society, of whose nomination notice has been given to the members of that building society at least 14 days before the date of that general meeting.

(f) Any building society shall, within 30 days of the date of appointment of any auditor under this subsection, apply to the Registrar in the form prescribed by regulation, for his approval of the appointment.

(g) The Registrar may, without assigning any reason therefor, refuse to approve of such appointment or withdraw his prior approval of the appointment of any auditor and thereupon the auditor concerned shall vacate his office.

(2) If any building society or the board of directors thereof fails to appoint any auditor required to be appointed in terms of subsection (1), the Registrar shall appoint, at the remuneration fixed by him, any such auditor who shall then be deemed to have been appointed by that building society or its board of directors, as the case may be.

(3) If the building society concerned fails to pay the remuneration of any auditor appointed under subsection (2), the Registrar shall pay such remuneration out of public funds and recover from that building society an amount equal to that remuneration.

(4) At the request of an auditor of a building society every director or servant of the society shall submit to the auditor any book or document or furnish him with any information relating to the society or its affairs which is in his possession or at his disposal and which the auditor deems necessary to perform his duties as auditor of the society.

(5) The auditor of a building society shall report to the society any irregularity or undesirable practice in the conduct of the business of the society which has come to the auditor's notice and if that irregularity or undesirable

maand vanaf die datum waarop dit aan die bouvereniging gerapporteer is, reggemaak of gestaak word nie, moet die ouditeur dit aan die Registrateur rapporteer.

(6) Die ouditeur van 'n bouvereniging is geregtig om elke algemene vergadering van aandeelhouers of lede van die vereniging by te woon, waarop aan daardie aandeelhouers of lede rekenings voorgelê word wat hy ondersoek het of waaroor hy verslag gedoen het of waarop die verkiesing of aanstelling van 'n ouditeur oorweeg moet word en om aldaar enige verklaring betreffende daardie rekenings of aanstelling te doen wat hy verlang om te doen.

(7) Waar die ouditeur van 'n bouvereniging 'n vennootskap is, verval die aanstelling van die ouditeur nie op grond van 'n verandering in die samestelling van die vennootskap nie solank minstens die helfte van die persone wat op die datum van die vennootskap se jongste aanstelling vennote daarin was, nog vennote daarin is.

#### **Hou van aantekeninge**

48. 'n Bouvereniging moet in een van die offisiële tale van die Republiek die aantekeninge hou wat nodig is om duidelik en juis die stand van sy sake te toon en om sy transaksies en finansiële posisie te verduidelik en om die Registrateur in staat te stel om te bepaal of die bouvereniging aan die bepalings van hierdie Wet voldoen het, en die bouvereniging moet elke sodanige aantekening in 'n veilige plek bewaar vir 'n tydperk van minstens drie jaar vanaf die datum van die laaste inskrywing daarin.

#### **Toepassing van sekere bepalings van Wet 61 van 1973 op alle bouverenigings**

49. (1) Die bepalings van artikels 9, 10, 12, 13, 14, 32, 33, 34, 36, 37, 38, 39, 50, 52, 54, 55, 57, 59, 60, 61, 62, 67, 68, 69, 70, 72, 93, 94, 95, 96, 97, 103, 104, 105, 106, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 170, 171, 172, 173, 179, 180, 181, 182, 183, 185, 186, 187, 188, 189, 190, 191, 192, 198, 199, 200, 201, 202, 203 (1), 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 215, 216, 218, 219, 220, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 266, 267, 268, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309 en 441 van die Maatskappywet, 1973 (Wet 61 van 1973), is, vir sover hulle toegepas kan word, ook *mutatis mutandis* van toepassing op elke permanente bouvereniging wat nie as maatskappy kragtens daardie Wet geregistreer of aan sy bepalings onderworpe is nie en ook op elke direkteur, bestuurder, sekretaris of ander amptenaar, of ouditeur van so 'n bouvereniging: Met dien verstande dat—

(a) by die toepassing van artikels 105 en 113 ten opsigte van 'n bouvereniging wat nie ingevolge bedoelde Wet geregistreer is of as geregistreer beskou word nie, word die vernaamste kantoor in die Republiek van die betrokke vereniging as sy geregistreerde kantoor beskou;

(b) by die toepassing van die bepalings van subartikels (1) en (2) van artikel 171 van die Maatskappywet, 1973 (Wet 61 van 1973), verwys die woord "direkteur" (waar dit in bedoelde subartikels voorkom) slegs na 'n lid van die hoofraad van direkteure en word die woord "besigheidsbrief" vervat in bedoelde subartikel (1) nie geag "gedrukte adviesvorms" in te sluit nie.

(c) vir doeleindes van hierdie Wet, 'n verwysing in enige van genoemde artikels van die Maatskappywet, 1973, na die Registrateur uitgelê word as 'n verwysing na die Registrateur van Bouverenigings.

practice is not rectified or discontinued within a period of one month as from the date upon which it was reported to the society, the auditor shall report it to the Registrar.

(6) The auditor of a building society shall be entitled to attend any meeting of shareholders or members of such society, at which any accounts which have been examined or reported on by him are to be laid before such shareholders or members or at which the election or appointment of an auditor is to be considered, and to make thereat any statement that he desires to make in relation to such accounts or such appointment.

(7) Where the auditor of a building society is a partnership, the appointment of such auditor shall not lapse by reason of a change in the composition of the partnership, as long as not less than half the persons who were partners as at the date when the partnership was last appointed continue to be partners therein.

#### **Keeping of records**

48. A building society shall keep such records in one of the official languages of the Republic as are necessary to exhibit clearly and correctly the state of its affairs and to explain its transactions and financial position and to enable the Registrar to determine whether the society has complied with the provisions of this Act, and it shall preserve every such record in a safe place for a period of at least three years as from the date of the last entry therein.

#### **Application of certain provisions of Act 61 of 1973 to all building societies**

49. (1) The provisions of sections 9, 10, 12, 13, 14, 32, 33, 34, 36, 37, 38, 39, 50, 52, 54, 55, 57, 59, 60, 61, 62, 67, 68, 69, 70, 72, 93, 94, 95, 96, 97, 103, 104, 105, 106, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 170, 171, 172, 173, 179, 180, 181, 182, 183, 185, 186, 187, 188, 189, 190, 191, 192, 198, 199, 200, 201, 202, 203 (1), 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 215, 216, 218, 219, 220, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 266, 267, 268, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309 and 441 of the Companies Act, 1973 (Act 61 of 1973), shall apply *mutatis mutandis*, in so far as such provisions can be applied, also to every permanent building society which is not registered as a company under or subject to the provisions of that Act and to every director, manager, secretary or other officer or auditor of such a building society: Provided that—

(a) in applying the said sections 105 and 113 in respect of a building society which is not registered or deemed to be registered under the said Act, the principal office in the Republic of the society in question shall be deemed to be its registered office;

(b) in applying the provisions of subsections (1) and (2) of section 171 of the Companies Act, 1973 (Act 61 of 1973), the word "director" (wherever it occurs in the said subsection) shall refer only to a member of the principal board of directors and the words "business letter" contained in the said subsection (1) shall not be taken to include "printed forms of advice";

(c) for the purposes of this Act, a reference to the Registrateur in any of the abovementioned sections of the Companies Act, 1973 (Act 61 of 1973), shall be construed as a reference to the Registrar of Building Societies.

(2) By die toepassing van bedoelde artikel 300 van bedoelde Wet word die inhoud daarvan (ten opsigte van alle permanente bouverenings) vertolk asof die volgende paragrafe na paragraaf (1) ingevoeg was:

"(m) Om hom daarvan te vergewis dat die sekuriteite en al die stukke van die bouvereniging behoorlik en veilig bewaar word;

(n) Om hom daarvan te vergewis dat die beheer van die bouvereniging oor sy takke en agentskappe voldoende is en dat sy opdragte aan sy amptenare in sy takke en agentskappe behoorlik uitgevoer is.":

Met dien verstande dat paragrafe (b) en (n) van bedoelde subartikel soos aldus vertolk, nie so uitgelê word dat 'n ouditeur van 'n bouvereniging jaarliks 'n audit ten opsigte van elke tak of agentskap van daardie bouvereniging moet uitvoer nie, tensy omstandighede sodanige optrede vereis.

(3) 'n Bouvereniging moet binne 21 dae na die datum van sy jaarlike algemene vergadering die Registrateur voorsien van 'n kopie, behoorlik gesertifiseer ooreenkomsdig die voorskrifte van artikel 17 (1) (a) van hierdie Wet, van elk van die finansiële jaarstate bedoel in artikels 286 en 288 van die Maatskappywet, 1973, en van die verslag vermeld in artikel 301 van daardie Wet.

#### *Voorlees van auditverslag op vergadering van aandeelhouers*

50. As 'n bouvereniging wat 'n jaarlike algemene vergadering van sy aandeelhouers of lede vir die oorweging van sy jaarrekeninge hou, nie aan hulle almal afskrifte van sy jongste wins-en-verliesrekening en balansstaat en van iedere ouditeursverslag wat daarop betrekking het, op so 'n dag gestuur het dat daardie afskrifte die aandeelhouers of lede (of die meerderheid van hulle in die Republiek), bereik het op 'n dag vóór die dag waarop die vergadering gehou word nie, moet die persoon wat as voorsteller van die vergadering optree iedere sodanige verslag aan die vergadering duidelik en hoorbaar voorlees of laat voorlees.

#### *Inspeksiebevoegdhede van Registrateur*

51. (1) Benewens die bevoegdhede en pligte aan hom verleen of hom opgelê deur hierdie Wet, het die Registrateur al die bevoegdhede en pligte aan hom verleen of hom opgelê deur die Wet op Inspeksie van Finansiële Instellings, 1984.

(2) Enige verwysing in hierdie Wet na 'n inspeksie of ondersoek kragtens hierdie artikel gedoen, word uitgelê as 'n verwysing na 'n inspeksie gedoen kragtens die Wet op Inspeksie van Finansiële Instellings, 1984.

#### *Aanstelling van kurator oor bouvereniging*

52. (1) Wanneer 'n bouvereniging in finansiële moeilikhede verkeer, kan die Minister, as hy dit in die openbare belang wenslik ag, na raadpleging met die bouvereniging en met die skriftelike toestemming van daardie bouvereniging 'n kurator oor die bouvereniging aanstel, en daarna is die bepalings van paragrafe (b) tot en met (g) en (i) tot en met (l) van artikel 433 en artikels 434 (2), 436, 437 en 440 van die Maatskappywet, 1973 (Wet 61 van 1973), *mutatis mutandis*, vir sover daardie bepaling nie onbestaanbaar is met die bepaling van hierdie artikel nie, ten opsigte van die bouvereniging en die kurator van toepassing: Met dien verstande dat by die toepassing van hierdie artikel die bevoegdhede en verpligtings wat voormalde bepalinge onderskeidelik aan die hof, die Meester en die geregtelike bestuurder verleen en hulle ople, oorgaan op onderskeidelik die Minister, die Registrateur en die kurator.

(2) In the application of section 300 of the Companies Act, 1973 (Act 61 of 1973), the provisions thereof shall be construed (in the case of all permanent building societies) as if the following paragraphs had been inserted after paragraph (1):

"(m) to satisfy himself that the securities and all records of the society are being properly and safely preserved;

(n) to satisfy himself that the control of the society over its branches and agencies is adequate and that its instructions to its employees in its branches and agencies have been properly carried out.":

Provided that paragraphs (b) and (n) of the said section as so construed shall not be interpreted so as to require an auditor of a building society to carry out an audit annually in respect of every branch and agency of such building society unless circumstances demand such action.

(3) A building society shall lodge with the Registrar within 21 days after the date of the society's annual general meeting, a copy of each of the annual financial statements referred to in sections 286 and 288 of the Companies Act, 1973 (Act 61 of 1973), and of the report mentioned in section 301 of the said Act, duly certified in the manner set forth in section 17 (1) (a) of this Act.

#### *Reading of auditor's report at meeting of shareholders*

50. If a building society which holds an annual general meeting of its shareholders or members for consideration of its annual accounts, has not sent to all of them copies of its last profit and loss account and balance sheet and of every auditor's report relating thereto, on such a date that the said copies reached the shareholders or members (or the majority of them in the Republic) on a date prior to the date on which the meeting is held, the person presiding at the meeting shall read out or cause to be read out clearly and audibly every such report to the meeting.

#### *Power of inspection of Registrar*

51. (1) In addition to the powers and duties conferred or imposed upon him by this Act, the Registrar shall have all the powers and duties conferred or imposed upon him by the Inspection of Financial Institutions Act, 1984.

(2) Any reference in this Act to an inspection or investigation made under this section shall be construed as a reference to an inspection made under the Inspection of Financial Institutions Act, 1984.

#### *Appointment of curator to building society*

52. (1) If any building society is in financial difficulties, the Minister may, if he deems it desirable in the public interest, after consultation with the society and with the written consent of such society, appoint a curator to the society and thereupon the provisions of paragraphs (b) to (g), inclusive, and (i) to (l), inclusive, of section 433 and sections 434 (2), 436, 437 and 440 of the Companies Act, 1973 (Act 61 of 1973), shall apply *mutatis mutandis*, in so far as such provisions are not inconsistent with the provisions of this section, in relation to the society and to the curator: Provided that for the purposes of this section the powers conferred and the duties imposed by the said provisions upon the court, the Master and the judicial manager, respectively, shall devolve upon the Minister, the Registrar and the curator, respectively.

(2) Die Minister stel 'n kurator per aanstellingsbrief aan waarin uiteengesit word—

(a) die naam van die bouvereniging ten opsigte waarvan die kurator aangestel word en die adres van sy hoofkantoor;

(b) voorskrifte ten opsigte van die sekuriteit wat die kurator moet stel vir die behoorlike uitvoering van sy pligte;

(c) voorskrifte betreffende die vergoeding van die kurator;

(d) die ander voorskrifte wat die Minister nodig ag aangaande die bestuur van die bouvereniging of 'n aangeleenthed in verband daarmee, met inbegrip van voor- skrifte in verband met die opneem van geld deur die bouvereniging.

(3) Die Minister kan, in die aanstellingsbrief of te eniger tyd daarna, aan die kurator die bevoegdheid verleen om in sy diskresie maar behoudens enige voorwaarde wat die Minister ople—

(a) die reg van enige krediteur van die bouvereniging om rente te vorder of te ontvang op geld wat deur die bouvereniging aan hom verskuldig is, op te skort of te verminder vanaf die datum van sy aanstelling as kurator of enige latere datum;

(b) aan enige krediteur of krediteure van die bouvereniging betalings te maak, hetsy ten opsigte van kapitaal of rente, op die tyd, in die volgorde en op die wyse wat hy goed ag;

(c) 'n ooreenkoms tussen die bouvereniging en enige ander persoon om geld voor te skiet wat betaalbaar word na die datum van sy aanstelling as kurator, of 'n ooreenkoms om 'n bestaande fasilitet te verleng, te kanselleer, indien, na die ordeel van die kurator, so 'n voorskot of 'n lening ooreenkomsdig so 'n fasilitet nie voldoende versekurer sal wees nie of nie terugbetaalbaar sal wees op voorwaardes wat vir die kurator aanneemlik is nie of indien die bouvereniging nie oor die nodige fondse beskik om sy verpligtings uit hoofde van enige sodanige ooreenkoms na te kom nie of indien dit andersins nie in belang van die bouvereniging sal wees nie.

(4) Die Minister kan te eniger tyd en op enige wyse die voorskrifte in die aanstellingsbrief, en die bevoegdhede deur hom kragtens subartikel (3) aan die kurator verleen, wysig of intrek.

(5) By die aanstelling van 'n kurator—

(a) gaan die bestuur van die betrokke bouvereniging oor op die kurator, onderworpe aan die toesig van die Registrateur, en word 'n ander persoon by wie die bestuur van die sake van die vereniging berus, daarvan onthef; en

(b) moet die kurator al die bates van die bouvereniging opvorder en in besit neem.

(6) Terwyl so 'n bouvereniging onder kuratorskap is—

(a) word alle gedinge, geregtelike verrigtinge, die ten- uitvoerlegging van alle lasbriewe, dagvaardigings en ander regsproses teen die vereniging opgeskort en nie sonder toestemming van die hof ingestel of voortgeset nie;

(b) word die werking van skuldvergelyking ten opsigte van enige bedrag deur 'n krediteur aan die bouvereniging verskuldig, opgeskort.

(7) Die Registrateur moet die aanstelling van 'n kurator en die bevoegdhede aan hom verleen by sy aanstelling, en enige wysiging of intrekking van daardie bevoegdhede, so spoedig doenlik by kennisgewing in die *Staatskoerant* bekend maak.

(2) The Minister shall appoint a curator by letter of appointment which shall set out—

(a) the name of the building society in respect of which the curator is appointed and the address of its head office;

(b) directions in regard to the security which the curator has to furnish for the proper performance of his duties;

(c) directions in regard to the remuneration of the curator;

(d) such other directions as to the management of the society or any matter incidental thereto, including directions in regard to the raising of money by the society, as the Minister may deem necessary.

(3) The Minister may, in the letter of appointment or at any time subsequent thereto, empower the curator in his discretion but subject to any condition which the Minister may impose—

(a) to suspend or reduce, as from the date of his appointment as curator or any subsequent date, the right of any creditor of the society to claim or receive interest on any moneys owing to him by the society;

(b) to make payments, whether in respect of capital or interest, to any creditor or creditors of the society, at such time, in such order and in such manner as he may deem fit;

(c) to cancel any agreement between the society and any other party to advance moneys due after the date of his appointment as curator, or to cancel any agreement to extend any existing facility, if, in the opinion of the curator, such advance or any loan under such facility would not be adequately secured or would not be repayable on terms acceptable to the curator or if the society lacks the necessary funds to meet its obligations under any such agreement or if it would not otherwise be in the interests of the society.

(4) The Minister may, at any time and in any manner, amend or withdraw the directions in the letter of appointment, and the powers granted by him under subsection (3), to the curator.

(5) On the appointment of a curator—

(a) the management of the building society in question shall vest in the curator, subject to the supervision of the Registrar, and any other person vested with the management of the affairs of the society shall be divested thereof; and

(b) the curator shall recover and take possession of all the assets of the society.

(6) While such society is under curatorship—

(a) all actions, legal proceedings, the execution of all writs, summonses and other legal process against the society shall be stayed and not be instituted or proceeded with without the leave of the court;

(b) the operation of set-off in respect of any amount owing by a creditor to the society shall be suspended.

(7) The Registrar shall as soon as is practicable notify the appointment of a curator and the powers granted to him on his appointment, and any amendment or withdrawal of such powers, by notice in the *Gazette*.

### Toepassing van likwidasiebepalings van Wet 61 van 1973

53. (1) Behoudens die bepalings van subartikels (2), (3) en (4) is die bepalings van die Maatskappywet, 1973, met betrekking tot die likwidasie of geregtelike bestuur van maatskappye *mutatis mutandis* en vir sover hulle toegepas kan word, van toepassing in verband met enige permanente bouvereniging al sou so 'n bepaling in stryd wees met enige ander wetsbepaling.

(2) By die toepassing van die bepalings van artikel 346 (4) van bedoelde Wet ten opsigte van 'n bouvereniging word hulle uitgelê asof—

(a) in paragraaf (a) van die artikel voor die woorde "by die Meester" die woorde "by die Registrateur van Bouverenigings en"; en

(b) in paragraaf (b) van die artikel voor die woorde "die Meester" die woorde "die Registrateur van Bouverenigings of"

ingevoeg was.

(3) By die toepassing van die bepalings van subartikel (3) van artikel 357 van bedoelde Wet ten opsigte van 'n bouvereniging, word hulle uitgelê asof voor die woorde "aan die beampetes" die woorde "aan die Registrateur van Bouverenigings en" ingevoeg was.

(4) By die toepassing van die bepalings van artikel 427 (2) van bedoelde Wet ten opsigte van 'n bouvereniging word die bepalings van artikel 346 (4) waarna in daardie artikel verwys word uitgelê ooreenkomsdig die voorskrifte van subartikel (2).

(5) By die likwidasie van 'n bouvereniging is 'n kontribuant nie op skuldvergelyking geregtig ten opsigte van skuld deur die vereniging aan hom verskuldig nie.

(6) Ondanks die bepalings van die Maatskappywet, 1973, word niemand anders as 'n persoon wat die Registrateur aanbeveel het deur 'n Meester van die Hooggereghof as likwidateur, voorlopige likwidateur, geregtelike bestuurder of voorlopige geregtelike bestuurder van 'n bouvereniging aangestel nie.

(7) Gedurende die vrywillige likwidasie van 'n bouvereniging moet die likwidateur iedere opgawe of staat aan die Registrateur verskaf wat die bouvereniging verplig sou gewees het om aan die Registrateur ingevolge hierdie Wet te verskaf indien die bouvereniging nie in likwidasie was nie.

(8) Die Registrateur is bevoeg om by die bevoegde gereghof aansoek te doen om die likwidasie van enige bouvereniging of om 'n bevel om enige bouvereniging onder geregtelike bestuur ingevolge die Maatskappywet, 1973, te plaas, en hy is bevoeg om so 'n aansoek wat deur iemand anders gedoen word, te bestry.

(9) 'n Hofbevel in die Republiek uitgereik wat op die geregtelike bestuur of likwidasie van 'n bouvereniging betrekking het, het in die gebied dieselfde uitwerking as in die Republiek, en so 'n bevel in die gebied uitgereik, het diezelfde uitwerking in die Republiek as in die gebied.

### Ontbinding van 'n bouvereniging

54. Onmiddellik na die bekragting van die finale rekening by die likwidasie van 'n bouvereniging moet die betrokke Meester van die Hooggereghof daarvan kennis gee aan die Registrateur wat daarop die registrasie of voorlopige registrasie van die betrokke bouvereniging moet intrek.

### Application of winding-up provisions of Act 61 of 1973

53. (1) Subject to the provisions of subsections (2), (3) and (4), the provisions of the Companies Act, 1973, which relate to the winding-up or judicial management of companies shall apply *mutatis mutandis* and in so far as they are applicable, in connection with any permanent building society, even though any such provision may be inconsistent with any provision in any other law.

(2) When the provisions of section 346 (4) of the said Act are applied in connection with any building society, they shall be construed as if—

(a) there had been inserted in paragraph (a) of the section the words "with the Registrar of Building Societies and" before the words "with the Master"; and

(b) there had been inserted in paragraph (b) of the said section the words "The Registrar of Building Societies or the" before the words "The Master".

(3) When the provisions of section 357 (3) of the said Act are applied in connection with any building society, they shall be construed as if the words "to the Registrar of Building Societies and" had been inserted before the words "to the Officers".

(4) When the provisions of section 427 (2) of the said Act are applied in connection with any building society the provisions of section 346 (4) referred to in the said section shall be construed in the manner set forth in subsection (2).

(5) In the liquidation of a building society a contributory shall not have a right of set-off in respect of a debt due to him by the building society.

(6) Notwithstanding the provisions of the Companies Act, 1973 (Act 61 of 1973), no person other than a person recommended by the Registrar shall be appointed by a Master of the Supreme Court as liquidator, provisional liquidator, judicial manager or provisional judicial manager of a building society.

(7) During the voluntary winding-up of any building society the liquidator shall furnish the Registrar with every return or statement which the society would have been obliged to furnish to the Registrar under this Act, if the society were not being wound-up.

(8) The Registrar shall have the right to apply to the competent court of law for the winding-up of any building society or for an order placing any building society under judicial management under the Companies Act, 1973 (Act 61 of 1973), and he shall have the right to oppose any such application made by any other person.

(9) An order of court made in the Republic and relating to the judicial management or winding-up of a building society shall have the same effect in the territory as it has in the Republic, and any such order made in the territory shall have the same effect in the Republic as it has in the territory.

### Dissolution of building society

54. Immediately after the confirmation of the final account in the winding-up of a building society, the Master of the Supreme Court concerned shall give notice thereof to the Registrar, who shall thereupon cancel the registration or provisional registration of the building society in question.

**Aanspreeklikheid van leners by likwidasie**

55. (1) Wanneer 'n vereniging gelikwideo word, is 'n lid of ander persoon aan wie 'n voorskot of 'n lening kragtens 'n verband of ander sekuriteit of kragtens die statute van die vereniging verstrek is, nie aanspreeklik om die bedrag kragtens so 'n verband, sekuriteit of statute betaalbaar, te betaal nie, behalwe op die tyd of tye en onderworpe aan die voorwaardes wat daarin uiteengesit is of waarop ooreengekom is.

(2) Subartikel (1) verbied nie 'n likwidator om met die goedkeuring van die Registrateur 'n voorskot of lening bedoel in die subartikel oor te dra aan 'n ander bouvereniging of instelling op voorwaardes wat nie tot nadeel van sodanige lid of persoon is nie.

**Verenigings moet voorsiening maak teen verlies weens nalatigheid of oneerlikheid van hul amptenare**

56. (1) 'n Vereniging moet of 'n fonds waarvan die reëls deur die Registrateur goedgekeur is, in stand hou wat volgens die oordeel van die Registrateur voldoende is en wat gereserveer is uitsluitlik om enige verlies wat voortspruit uit die nalatigheid of oneerlikheid van een of meer van sy amptenare of agente te vergoed of hom vir 'n bedrag wat nie minder is nie as 'n bedrag wat die Registrateur voldoende aag, teen sodanige verlies verseker by 'n versekeraar wat kragtens die Versekeringswet, 1943 (Wet 27 van 1943), geregistreer is om sodanige versekeringsbesigheid te dryf.

(2) Die bates van enige fonds wat ingevolge hierdie artikel in stand gehou word, moet uit beleggings wat as likwiede bates kwalifiseer bestaan, en mag op geen manier met die bates van die vereniging saamgesmelt word nie.

**Minderjariges en getroude vroue**

57. Tensy die statute van die vereniging anders bepaal, kan 'n minderjarige bo die ouderdom van 16 jaar of 'n getroude vrou, hetsy onder maritale mag al dan nie, lid wees van of belegger wees by 'n vereniging en sonder die toestemming of bystand van sy voog of haar eggenoot, na gelang van die geval, alle nodige dokumente verly, alle nodige kwitansies gee, sy, of haar aandeel of belegging sedeer of verpand, teen sy of haar belegging leen en in die algemeen met sy of haar aandeel of belegging handel soos hy of sy goedvind, en geniet hy of sy al die voorregte (behalwe dat 'n minderjarige nie 'n amp kan beklee nie) en is hy of sy onderworpe aan al die verpligtings wat vir lede of beleggers geld.

**Registrateur kan inligting van 'n bouvereniging eis**

58. Die Registrateur kan van tyd tot tyd van enige bouvereniging enige inligting omtrent sy bedryf of enige van sy transaksies eis, en as die bouvereniging versuim om binne 'n redelike tydperk aan die Registrateur enige deur hom verlangde inligting waaraan die bouvereniging beskik, te verskaf, is die bouvereniging aan 'n misdryf skuldig.

**Registrateur kan sekere tydperke verleng**

59. Op versoek van 'n bouvereniging kan die Registrateur na goeddunke van tyd tot tyd enige tydperk waarbinne die vereniging ingevolge hierdie Wet verplig is om enige dokument of inligting te verskaf, verleng.

**Versuim om voorgeskrewe verhouding of minimum bedrag in stand te hou**

60. 'n Bouvereniging wat te eniger tyd versuim om 'n by of kragtens hierdie Wet voorgeskrewe verhouding of minimum bedrag in stand te hou, moet onverwyld die versuim aan die Registrateur rapporteer, en indien die tekort of oorskryding nie dadelik goed gemaak word nie, kan die bouvereniging skriftelik by die Registrateur om 'n verlenging van tyd waarin daardie tekort of oorskryding goed gemaak kan word, aansoek doen en die Registrateur kan,

**Liability of borrowers in winding-up**

55. (1) When a society is being wound up, a member or other person to whom an advance or a loan has been made under any mortgage or other security or under the rules of the society shall not be liable to pay the amount payable under such mortgage or security or rules except at the time or times and subject to the conditions therein expressed or agreed upon.

(2) Subsection (1) does not prohibit a liquidator to transfer, with the approval of the Registrar, an advance or loan referred to in the subsection to another building society or institution on conditions which are not to the detriment of such member or person.

**Societies to provide against loss through negligence or dishonesty of their officers and agents**

56. (1) A society shall either maintain a fund of which the rules have been approved by the Registrar and which in the opinion of the Registrar is adequate and which is reserved exclusively for the purpose of making good any loss resulting from the negligence or dishonesty of any of its officers or agents, or shall insure itself against such loss to an amount which is not less than an amount which the registrar deems adequate, with an insurer who is registered in terms of the Insurance Act, 1943 (Act 27 of 1943), to carry on such insurance business.

(2) The assets of any fund maintained in terms of this section shall consist of assets which rank as liquid assets and shall not in any way be merged with the assets of the society.

**Minors and married women**

57. Unless otherwise provided by the rules of the society, a minor over the age of 16 years or a married woman, whether under marital power or not, may be a member of or depositor with any society and may without the consent or assistance of his guardian or her husband, as the case may be, execute all necessary documents, give all necessary acquittances and cede, pledge, borrow against and generally deal with his or her share or deposit as he or she thinks fit, and shall enjoy all the privileges (except that a minor shall not hold office) and be liable to all the obligations attaching to members or depositors.

**Registrar may demand information from a building society**

58. The Registrar may from time to time demand from any building society any information relating to its business or any of its transactions and if the society fails to furnish the Registrar within a reasonable period with any such information which the Registrar has demanded from it and which is at its disposal, it shall be guilty of an offence.

**Registrar may extend certain periods**

59. At the request of a building society the Registrar may, in his discretion, extend from time to time any period within which the society is, in terms of this Act, obliged to furnish any document or information.

**Default in maintaining prescribed ratio or minimum amount**

60. A building society which at any time fails to maintain a ratio prescribed or minimum amount prescribed by or under this Act shall forthwith report the failure to the Registrar, and if the deficiency or excess is not corrected immediately, the building society may in writing apply to the Registrar for an extension of time within which to correct such

indien hy die redes vir die versum aanneemlik vind, 'n tydperk bepaal waarin die bouvereniging daardie tekort of oorskryding moet goedmaak en kan daardie tydperk van tyd tot tyd verleng waar grondige redes daarvoor aangevoer word.

#### **Jaarverslag van die Registrateur**

61. Die Registrateur moet jaarliks aan die Minister 'n verslag voorlê oor al die bouverenigings wat ingevolge hierdie Wet geregistreer of voorlopig geregistreer is en oor alle sake rakende sulke verenigings, wat hy gedurende die onderhavige jaar behandel het, en die Minister moet die verslag in die Parlement ter Tafel lê.

#### **Jaarlikse Licensie**

62. (1) Elke bouvereniging wat ingevolge hierdie Wet geregistreer of voorlopig geregistreer is, moet van die ontvanger van inkomste van die distrik waarin die bouverening se hoofkantoor geleë is 'n bouverenigingslicensie ten opsigte van elke jaar eindigende op die 31ste dag van Desember verkry.

(2) 'n Licensiegeld van R1 000 plus R10 ten opsigte van elke takkantoor van die bedoelde bouvereniging moet vir so 'n licensie aan die betrokke ontvanger van inkomste betaal word: Met dien verstande dat die licensiegeld ten opsigte van 'n nuwe bouvereniging wat gestig word of 'n nuwe tak waarin sake begin word op of na die eerste dag van Julie van die jaar waarvoor die licensie nodig is, onderskeidelik R500 en R5 is.

(3) Die licensiegeld moet voor die einde van Januarie van die jaar waarvoor die licensie nodig is, betaal word: Met dien verstande dat die licensiegeld ten opsigte van 'n nuwe bouvereniging wat gestig word of 'n nuwe takkantoor waarin sake begin word na die begin van 'n jaar, betaal moet word binne 'n maand na die datum waarop sake begin is.

(4) 'n Bouvereniging wat versuum om die volle bedrag van die licensiegeld te betaal binne die tydperk wat vir die betaling daarvan ingevolge subartikel (3) toegelaat word, moet, benewens daardie licensiegeld, vir elke maand of deel van 'n maand waartydens die licensiegeld aldus onbetaald bly, en gereken vanaf die datum waarop die aanspreeklikheid om die licensiegeld te betaal, ontstaan het, 'n boete betaal bereken teen die koers van 10 persent van die bedrag van die licensiegeld wat hy soos voormeld versuum het om te betaal.

(5) Alle gelde ingevolge hierdie artikel betaalbaar, is 'n skuld verskuldig aan die Regering van die Republiek, en is deur die Kommissaris van Binnelandse Inkomste by aksie in 'n bevoegde hof verhaalbaar.

(6) Die licensiegeld en enige boete wat ingevolge hierdie artikel ten opsigte van 'n bouvereniging of sy takkantoor, behalwe 'n takkantoor in die gebied, ingevorder word, val ten bate van die Gekonsolideerde Inkomstefonds toe, en die licensiegeld en enige boete wat ingevolge hierdie artikel ten opsigte van 'n bouvereniging of 'n tak in die gebied ingevorder word, val ten bate van die Inkomstefonds van die gebied toe.

#### **Gelde vir insae en afskrifte van sekere dokumente.**

63. (1) Teen betaling van die bedrag van R1 kan enigmant enige dokument wat ingevolge subartikel (2) van artikel vier of subartikel (1) van artikel 17 of artikel 43 of 45 deur 'n bepaalde bouvereniging aan die Registrateur verstrek is, insien en 'n afskrif daarvan maak.

(2) Die Registrateur verstrek aan iemand wat daarom aansoek doen 'n fotostatiese of met dubbelspasiëring getikte afskrif van of uittreksel uit so 'n voormalde dokument teen betaling van die bedrag van R1 vir elke enkelfoliobladsy of deel daarvan wat die afskrif of uittreksel beslaan.

deficiency or excess and the Registrar may, if the reasons for the failure are acceptable to him, fix a period within which the building society shall correct such deficiency or excess and may on good cause shown from time to time extend such period.

#### **Annual report by Registrar**

61. The Registrar shall annually submit to the Minister a report on all building societies which have been registered or provisionally registered under this Act and on all matters relating to such societies which have been dealt with by him during the year under review, and the Minister shall lay the report upon the Table in Parliament.

#### **Annual licence**

62. (1) Every building society registered or provisionally registered under this Act shall obtain from the receiver of revenue of the district in which such building society's head office is situated a building society's licence in respect of each and every year ending on the 31st day of December.

(2) A duty of R1 000 plus R10 in respect of each branch office of such building society shall be paid for such licence to the receiver of revenue concerned: Provided that the duty in respect of any new building society established, or of any new branch office in which business is commenced on or after the first day of July in the year for which the licence is required shall be R500 and R5 respectively.

(3) The duty shall be paid before the end of January of the year for which the licence is required: Provided that the duty in respect of any new building society established, or of any new branch office in which business is commenced after the beginning of any year shall be paid within one month after the date on which business is so commenced.

(4) Any building society which fails to pay the full amount of the duty within the period allowed in terms of subsection (3) for payment thereof shall, in addition to such duty, pay for each month or part of a month during which the duty remains so unpaid, a penalty calculated at the rate of 10 per cent of the amount of duty which it has failed to pay as aforesaid, and reckoned from the date on which the liability to pay the duty arose.

(5) All moneys due under this section shall be a debt due to the Government of the Republic and shall be recoverable by auction in any competent court by the Commissioner for Inland Revenue.

(6) The duty and any penalty collected under this section in respect of a building society or its branch office, other than a branch office in the territory, shall accrue for the benefit of the Consolidated Revenue Fund, and the duty and any penalty collected under this section in respect of any building society and branch office in the territory shall accrue for the benefit of the Revenue Fund of the territory.

#### **Fees for inspection and copies of certain documents**

63. (1) On payment of a fee of R1 any person may inspect and make a copy of any document furnished to the Registrar by any one building society in terms of subsection (2) of section 4 or subsection (1) of section 17 or section 43 or 45.

(2) The Registrar shall furnish any applicant therefor with a photostatic or double-spaced typewritten copy of, or extract from, any such document as aforesaid, on payment of a fee of R1 for every single foolscap page or portion thereof of which the copy or extract consists.

(3) Die Registrateur verstrek aan iemand wat daarom aansoek doen, teen betaling van 'n bedrag van R1 'n gesertificeerde afskrif van enige registrasiesertifikaat of voorlopige registrasiesertifikaat of sertifikaat van naamsverandering deur hom uitgereik.

(4) Die Registrateur kan iemand vrystel van die verpligting om 'n bedrag ingevolge hierdie artikel te betaal, indien hy oortuig is dat die betrokke insae, afskrif of uittreksel verlang word ter bevordering van die een of ander openbare belang.

#### **Misdrywe en strawwe**

64. (1) Iemand wat 'n bepaling van hierdie Wet oortree of versuim om te voldoen aan 'n bepaling van hierdie Wet wat hom 'n verpligting ople, is aan 'n misdryf skuldig.

(2) Indien iemand 'n staat, opgawe of verslag onderteken, of 'n verklaring doen of enige inligting verstrek, hetsy mondeling of skriftelik, waarvoor in hierdie Wet voorsiening gemaak word, met die wete dat die betrokke staat, opgawe, verslag of inligting vals of onjuis is, word hy geag bedrog of falsiteit te pleeg.

(3) Indien iemand die Registrateur of 'n ingevolge artikel 47 aangestelde ouditeur of 'n ingevolge artikel 51 aangestelde inspekteur belet om sy werkzaamhede as Registrateur of as sodanige ouditeur of inspekteur te verrig of die Registrateur of so 'n ouditeur of inspekteur by die verrigting van daardie werkzaamhede hinder, is hy aan 'n misdryf skuldig.

(4) Indien iemand ten opsigte van 'n maatskappy, vereniging, firma, besigheid of onderneming wat nie ingevolge hierdie Wet as 'n bouvereniging geregistreer of voorlopig geregistreer is nie, enige naam, betiteling of beskrywing besig waarin die woord "bouvereniging" of enige afleiding daarvan voorkom, is hy aan 'n misdryf skuldig, tensy bewys word dat die Registrateur skriftelik toegestem het dat bedoelde naam, betiteling of beskrywing ten opsigte van die betrokke maatskappy, vereniging, firma, besigheid of onderneming gebesig mag word.

(5) Indien iemand versuim het om aan die bepalings van artikel 19, 20, 21, 22 of 23 te voldoen, loop hy 'n boete op bereken teen 12 persent per jaar van die bedrag van die betrokke tekort, vir iedere dag wat die tekort bestaan, en die Registrateur kan na goeddunke die boete deur middel van 'n siviele regsgeding in enige bevoegde gereghof invorder. Met dien verstande dat die Registrateur die skuldige persoon kan dagvaar vir 'n bedrag wat minder is as die volle boete wat hy opgeloop het.

(6) Indien iemand wat ingevolge subartikel (5) aanspreeklik is, gedurende die tydperk van 'n in daardie subartikel vermelde tekort dividende uitkeer, is hy aan 'n misdryf skuldig.

(7) Iemand wat aan 'n ootreding ingevolge hierdie Wet (uitgesonderd bedrog of falsiteit) skuldig bevind word, is strafbaar met 'n boete van hoogstens R2 000.

(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 volgens 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 R100 vir elke dag na die verstryking van so 'n tydperk wat hy aanhou om aldus in gebreke te bly, en die Registrateur kan deur middel van 'n siviele regsgeding in enige bevoegde gereghof so 'n boete, of so 'n gedeelte daarvan as wat hy na goeddunke meen dat die omstandighede hom regverdig om te vorder, op so iemand verhaal.

(3) The Registrar shall furnish any applicant therefor, on payment of a fee of R1 with a certified copy of any certificate of registration or provisional registration or any certificate of change of name issued by him.

(4) The Registrar may exempt any person from the obligation to pay any fee under this section if he is satisfied that the inspection, copy or extract in question is desired for the purpose of furthering some public interest.

#### **Offences and penalties**

64. (1) Any person who contravenes any provision of this Act or fails to comply with any provision of this Act which imposes any duty upon him, shall be guilty of an offence.

(2) If any person signs any statement, return or report or makes any statement or gives any information, whether oral or in writing, for which provision is made in this Act, with the knowledge that the statement, return, report or information in question is false or incorrect, he shall be deemed to be guilty of fraud or *falsitas*.

(3) If any person prevents the Registrar or an auditor appointed under section 47 or an inspector appointed under section 51 from performing his functions as Registrar or as such an auditor or inspector, or hinders the Registrar or such an auditor or inspector in the performance of those functions, he shall be guilty of an offence.

(4) If any person applies to any company, society, firm, business or undertaking which is not registered or provisionally registered as a building society under this Act, any name, style or description in which the word "building society" or any derivative thereof occurs, he shall be guilty of an offence, unless it is proved that the Registrar has given written permission to apply the said name, style or description to the company, society, firm, business or undertaking in question.

(5) If any person has failed to comply with the provisions of section 19, 20, 21, 22 or 23 he shall incur a penalty at the rate of 12 per cent per annum on the amount of the deficiency in question for each day that a deficiency exists, which the Registrar may in his discretion recover by civil action in any competent court of law: Provided that the Registrar may sue the person in default for an amount less than the full penalty which he has incurred.

(6) If any person liable under subsection (5) pays dividends during the period of any deficiency mentioned in that subsection, he shall be guilty of an offence.

(7) Any person convicted of any offence under this Act (other than fraud or falsity) shall be liable to a fine not exceeding R2 000.

(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 R100 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.

**Regulasies**

65. (1) Die Minister kan regulasies uitvaardig wat nie met hierdie Wet strydig is nie en daarby alle sake voorskryf wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word.

(2) Iemand wat ingevolge 'n bepaling van hierdie Wet verplig is om 'n opgawe of staat in 'n by regulasie voorgeskrewe vorm te verstrek, word geag nie daardie opgawe of staat te verstrek het nie, tensy hy alle besonderhede, waarvoor in die voorgeskrewe vorm voorsiening gemaak word, daarin uiteengesit het.

**Toepassing van Wet in Suidwes-Afrika**

66. Die bepalings van hierdie Wet en enige wysiging daarvan is van toepassing ook in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel.

**Periodieke hersiening van Wet**

67. (1) Die Minister benoem 'n staande komitee om ondersoek in te stel en hom te adviseer oor praktyke van bouverenigings wat ongewens is en oor wysigings aan hierdie Wet wat, na die komitee se mening, op grond van veranderde praktyke of omstandighede wenslik geword het, of wat uit die administrasie van die Wet geblyk het wenslik te wees, of deur die Registrateur of die Minister vir ondersoek na die komitee verwys is.

(2) 'n Lid van die komitee word vir 'n tydperk van twee jaar aangestel en kan by verstryking van sodanige tydperk vir 'n verdere tydperk aangestel word.

**Herroeping van wette en voorbehoude**

68. Behoudens die bepalings van artikel 44 word die Bouverenigingswet, 1965 (Wet 24 van 1965), en wette waardeur bepalings van bedoelde wet gewysig is, hiermee herroep.

**Kort titel en datum van inwerkingtreding**

69. Hierdie Wet heet die Bouverenigingswet, 1985, en tree in werking op die 1ste dag van Januarie 1986.

**Regulations**

65. (1) The Minister may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed by regulation.

(2) A person who is obliged in terms of any provision of this Act to render a return or statement in a form prescribed by regulation, shall be deemed not to have rendered that return or statement unless he has set forth therein all the particulars for which provision is made on the prescribed form.

**Application to South-West Africa**

66. This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

**Periodic review of Act**

67. (1) The Minister shall appoint a standing committee to enquire into and report to him on building society practices which are undesirable and on amendments to this Act which, in the opinion of the committee, have become desirable by virtue of changed practices or circumstances or which the administration of the Act has revealed to be desirable or which the Registrar or the Minister has referred to the committee for enquiry.

(2) A member of the committee shall be appointed for a period of two years and may be re-appointed on expiry of the said period.

**Repeal of laws and provisions**

68. Subject to the provisions of section 44 of the Building Societies Act, 1965 (Act 24 of 1965), and any acts amending provisions of the said Act are hereby repealed.

**Short title and date of commencement**

69. This Act shall be called the Building Societies Act, 1985, and shall come into operation on the 1st day of January 1986.

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2. Vir die tydperk 1 Oktober 1983 tot 30 September 1984 word Afrikaans EERSTE geplaas.
3. Hierdie reëling word in ooreenstemming gebring met dié van die Parlement waarby koerante met Wette ens. die taalvolgorde deurgaans behou vir die duur van die sitting.
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—oOo—

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1. Notice is hereby given that the interchange of languages in the *Government Gazette* no longer takes place quarterly, but that it will now be done annually, starting on 1 October until 30 September, every year.
2. For the period 1 October 1983 to 30 September 1984, Afrikaans is to be placed FIRST, changing annually hereafter.
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