



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprijs
(GST excluded/AVB uitgesluit)

Local **50c** Plaaslik
Other countries 70c Buitelands
Post free • Posvry

VOL. 285

CAPE TOWN, 15 MARCH 1989

KAAPSTAD, 15 MAART 1989

No. 11748

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 448.

15 March 1989

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

No. 13 of 1989: Banking Institutions, Mutual Building Societies and Building Societies Amendment Act, 1989.

No. 448.

15 Maart 1989

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

No. 13 van 1989: Wysigingswet op Bankinstellings, Onderlinge Bouverenigings en Bouverenigings, 1989.

Act No. 13, 1989

BANKING INSTITUTIONS, MUTUAL BUILDING SOCIETIES AND
BUILDING SOCIETIES AMENDMENT ACT, 1989

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the provisions of the Banks Act, 1965, so as to further regulate the prohibition on the carrying on of the business of a banking institution by unregistered institutions; to rectify an omission in the Afrikaans text of section 12 of the said Act; to further regulate the exercise of voting rights by a financial company and its associates in respect of shares held in a banking institution or bank controlling company; to make other provision with reference to the carrying on of banking business through an agent; to reformulate the powers of inspection of the Registrar of Banks; and to increase the penalty for a contravention of section 7 (1) or (2) of the Act; to amend the provisions of the Mutual Building Societies Act, 1965, so as to further regulate the requirements relating to the furnishing of information to depositors; and to set out more fully the prohibition relating to the purchase by officers of a mutual building society of property owned by or mortgaged to that society; and to amend the provisions of the Building Societies Act, 1986, so as to further regulate the requirements relating to the furnishing of information to depositors; and to set out more fully the prohibition relating to the purchase by certain office-bearers and employees of a building society of property owned by or mortgaged to that building society; and to provide for matters connected therewith.

*(English text signed by the acting State President.)
(Assented to 7 March 1989.)*

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

Amendment of section 7 of Act 23 of 1965, as amended by section 39 of Act 101 of 1976, section 13 of Act 106 of 1985 and section 4 of Act 96 of 1988

1. Section 7 of the Banks Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) No person shall carry on the business of a banking institution unless that person has in terms of section 4 been registered or provisionally registered as a bank or a discount house, and no person other than a registered bank or bank controlling company shall without the consent of the Registrar acquire a 10 registered banking institution.”

Amendment of section 12 of Act 23 of 1965, as substituted by section 16 of Act 106 of 1985

2. Section 12 of the Banks Act, 1965, is hereby amended by the substitution, in the Afrikaans text, for paragraph (b) of subsection (2) of the following paragraph: 15

WYSIGINGSWET OP BANKINSTELLINGS, ONDERLINGE
BOUVERENIGINGS EN BOUVERENIGINGS, 1989

Wet No. 13, 1989

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordeninge aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

WET

Tot wysiging van die bepalings van die Bankwet, 1965, ten einde die verbod op die uitoefening van die bedryf van 'n bankinstelling deur ongeregistreerde instellings verder te reël; 'n weglating in die Afrikaanse teks van artikel 12 van genoemde Wet reg te stel; die uitoefening van stemreg deur 'n finansiële maatskappy en sy geassosieerdes ten opsigte van aandele gehou in 'n bankinstelling of bankbeheermaatskappy verder te reël; ander voorsiening te maak met betrekking tot die doen van bankbesigheid deur 'n agent; die inspeksiebevoegdheid van die Registrateur van Banke te herformuleer; en die straf vir 'n oortreding van artikel 7 (1) of (2) van die Wet te verhoog; tot wysiging van die bepalings van die Wet op Onderlinge Bouverenigings, 1965, ten einde die vereistes met betrekking tot die verstrekking van inligting aan deposante verder te reël; en die verbod met betrekking tot die aankoop deur amptenare van 'n onderlinge bouvereniging van eiendom wat aan daardie vereniging behoort of verhipotekeer is, meer volledig uiteen te sit; en tot wysiging van die bepalings van die Wet op Bouverenigings, 1986, ten einde die vereistes met betrekking tot die verstrekking van inligting aan deposante verder te reël; en die verbod met betrekking tot die aankoop deur sekere ampsdraers en werknemers van 'n bouvereniging van eiendom wat aan daardie bouvereniging behoort of verhipotekeer is, meer volledig uiteen te sit; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die waarnemende Staatspresident geteken.)
(Goedgekeur op 7 Maart 1989.)*

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

Wysiging van artikel 7 van Wet 23 van 1965, soos gewysig deur artikel 39 van Wet 101 van 1976, artikel 13 van Wet 106 van 1985 en artikel 4 van Wet 96 van 1988

5 1. Artikel 7 van die Bankwet, 1965, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

10 “(1) Niemand mag die bedryf van 'n bankinstelling uitoefen nie, tensy hy ingevolge artikel 4 as 'n bank of 'n diskontohuis geregistreer of voorlopig geregistreer is, en niemand behalwe 'n geregistreerde bank of bankbeheermaatskappy mag sonder die toestemming van die Registrateur 'n geregistreerde bankinstelling verkry nie.”.

Wysiging van artikel 12 van Wet 23 van 1965, soos vervang deur artikel 16 van Wet 106 van 1985

2. Artikel 12 van die Bankwet, 1965, word hierby gewysig deur paragraaf (b) van 15 subartikel (2) deur die volgende paragraaf te vervang:

Act No. 13, 1989 **BANKING INSTITUTIONS, MUTUAL BUILDING SOCIETIES AND BUILDING SOCIETIES AMENDMENT ACT, 1989**

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

Amendment of section 28D of Act 23 of 1965, as substituted by section 31 of Act 106 of 1985 and amended by section 12 of Act 96 of 1988 5

3. Section 28D of the Banks Act, 1965, is hereby amended by the addition to subsection (9) of the following proviso:

“Provided that the Minister may in a special case, if he is satisfied that such a step is desirable in the public interest, approve that a financial company and its associates may, either generally or on a particular occasion, exercise the voting rights attached to all the shares in the relevant banking institution or bank controlling company, as the case may be, which are registered in their names.”. 10

Amendment of section 29 of Act 23 of 1965, as substituted by section 33 of Act 106 of 1985

4. Section 29 of the Banks Act, 1965, is hereby amended by the substitution, in subsection (1), for the words preceding the proviso of the following words:

“A bank which has a branch system and which accepts money on deposit which is withdrawable by cheque and which has been admitted to the clearing house of banks, shall not carry on any business in the Republic through a person who is not its full-time servant, except with the written approval of the Registrar and subject to such conditions as the Registrar may determine”. 20

Substitution of section 39 of Act 23 of 1965

5. The following section is hereby substituted for section 39 of the Banks Act, 1965:

“Powers of inspection of Registrar 25

39. (1) In addition to the powers and duties conferred or imposed upon him by this Act, the Registrar shall, for the purposes of the performance of his functions under this Act have [all the] powers and duties [conferred or imposed upon him] in all respects corresponding to the powers and duties conferred or imposed by the Inspection of Financial Institutions Act, [1962 (Act No. 68 of 1962)] 1984 (Act No. 38 of 1984), upon a registrar contemplated in the last-mentioned Act. 30

(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] in accordance with the provisions of the Inspection of Financial Institutions Act, [1962] 1984.” 35

Amendment of section 49 of Act 23 of 1965, as amended by section 6 of Act 23 of 1970, section 32 of Act 86 of 1984 and section 36 of Act 106 of 1985

6. Section 49 of the Banks Act, 1965, is hereby amended by the substitution for subsection (7) of the following subsection: 40

“(7) Any person convicted of any offence under this Act (other than fraud or falsity) shall be liable—

(a) in the case of the offence of contravening section 7 (1) or (2), to a fine not exceeding R100 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment; and 45

(b) in the case of any other offence, to a fine not exceeding [one] five thousand rand.”.

WYSIGINGSWET OP BANKINSTELLINGS, ONDERLINGE
BOUVERENIGINGS EN BOUVERENIGINGS, 1989

Wet No. 13, 1989

Wysiging van artikel 42 van Wet 24 van 1965, soos vervang deur artikel 29 van Wet 81 van 1986

7. Artikel 42 van die Wet op Onderlinge Bouverenigings, 1965, word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:
- 5 “(a) moet ’n deposant by die opening van ’n spaarrekening in sy naam skriftelik en in ’n verkorte vorm soos deur die registrateur goedgekeur, verwittig van die voorwaardes wat op die spaarrekening van toepassing is;”.

Vervanging van artikel 46 van Wet 24 van 1965, soos vervang deur artikel 29 van Wet 81 van 1986

- 10 8. Artikel 46 van die Wet op Onderlinge Bouverenigings, 1965, word hierby deur die volgende artikel vervang:

“Bekendmaking van voorwaardes van toepassing op transmissierekenings

- 15 46. ’n Vereniging moet ’n deposant by die opening van ’n transmissierekening in sy naam skriftelik en in ’n verkorte vorm soos deur die registrateur goedgekeur, verwittig van die voorwaardes wat op transmissierekenings deur daardie vereniging gehou, van toepassing is.”.

Vervanging van artikel 48 van Wet 24 van 1965, soos vervang deur artikel 29 van Wet 81 van 1986

- 20 9. Artikel 48 van die Wet op Onderlinge Bouverenigings, 1965, word hierby deur die volgende artikel vervang:

“Bekendmaking van voorwaardes van toepassing op vaste deposito's

- 25 48. Wanneer ’n deposant ’n bedrag as ’n vaste deposito by ’n vereniging belê, moet die vereniging hom skriftelik en in ’n verkorte vorm soos deur die registrateur goedgekeur, verwittig van die termyn, rentekoers en ander voorwaardes wat op die vaste deposito van toepassing is.”.

Wysiging van artikel 76 van Wet 24 van 1965, soos gewysig deur artikel 30 van Wet 96 van 1988

- 30 10. Artikel 76 van die Wet op Onderlinge Bouverenigings, 1965, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- 35 “(2) Geen amptenaar van ’n vereniging [of] en geen firma waarin so ’n amptenaar ’n regstreekse belang het, mag eiendom of ’n reg op eiendom wat aan die vereniging behoort of verhipotekeer is en wat deur of in opdrag van die vereniging of by ’n geregtelike verkoping in opdrag van enige ander persoon verkoop word, koop of by die aankoop daarvan betrokke wees nie, tensy die eiendom op ’n behoorlik geadverteerde openbare verkoping gekoop word of die verkoop deur die registrateur goedgekeur word.”.

Wysiging van artikel 58 van Wet 82 van 1986

- 40 11. Artikel 58 van die Wet op Bouverenigings, 1986, word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

 “(a) moet ’n deposant by die opening van ’n spaarrekening in sy naam skriftelik en in ’n verkorte vorm soos deur die Registrateur goedgekeur, verwittig van die voorwaardes wat op die spaarrekening van toepassing is;”.

Vervanging van artikel 62 van Wet 82 van 1986

- 45 12. Artikel 62 van die Wet op Bouverenigings, 1986, word hierby deur die volgende artikel vervang:

“Bekendmaking van voorwaardes van toepassing op transmissierekenings

 62. ’n Bouvereniging moet ’n deposant by die opening van ’n transmissierekening in sy naam skriftelik en in ’n verkorte vorm soos deur die

Act No. 13, 1989

BANKING INSTITUTIONS, MUTUAL BUILDING SOCIETIES AND
BUILDING SOCIETIES AMENDMENT ACT, 1989

a transmission account in his name, of the conditions applicable to transmission accounts kept by that building society.”.

Substitution of section 64 of Act 82 of 1986

13. The following section is hereby substituted for section 64 of the Building Societies Act, 1986:

“Disclosure of conditions applicable to fixed deposits

64. Whenever any depositor invests an amount as a fixed deposit with a building society, the building society shall in writing and in a summarized form as approved by the Registrar inform him **[in writing]** of the term, interest rate and other conditions applicable to such fixed deposit.”.

Amendment of section 104 of Act 82 of 1986

14. Section 104 of the Building Societies Act, 1986, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) A director, alternate director, local director, local committee member or employee of a building society or control company who, or a firm in which such a person has a direct interest and which— 15

- (a) accepts from any person any benefit for or in connection with any advance granted by that building society or by the building society in respect of which that control company is registered; or 20
- (b) otherwise than with the written consent of the Registrar or at a duly advertised public auction purchases any property or any right to property owned by or mortgaged to that building society or the building society in respect of which that control company is registered, and which is sold by or at the instance of the building society in question or is sold at a judicial sale 25
at the instance of any other person,
shall be guilty of an offence.”.

Short title

15. This Act shall be called the Banking Institutions, Mutual Building Societies and Building Societies Amendment Act, 1989. 30

WYSIGINGSWET OP BANKINSTELLINGS, ONDERLINGE
BOUVERENIGINGS EN BOUVERENIGINGS, 1989

Wet No. 13, 1989

Registrateur goedgekeur, verwittig van die voorwaardes wat op trans-
missierekenings deur daardie bouvereniging gehou, van toepassing is."

Vervanging van artikel 64 van Wet 82 van 1986

13. Artikel 64 van die Wet op Bouverenigings, 1986, word hierby deur die
5 volgende artikel vervang:

"Bekendmaking van voorwaardes van toepassing op vaste deposito's"

10 64. Wanneer 'n deposant 'n bedrag as 'n vaste deposito by 'n
bouvereniging belê, moet die bouvereniging hom skriftelik en in 'n
verkorte vorm soos deur die Registrateur goedgekeur, verwittig van die
termyn, rentekoers en ander voorwaardes wat op die vaste deposito van
toepassing is."

Wysiging van artikel 104 van Wet 82 van 1986

14. Artikel 104 van die Wet op Bouverenigings, 1986, word hierby gewysig deur
subartikel (2) deur die volgende subartikel te vervang:

- 15 "(2) 'n Direkteur, plaasvervangende direkteur, plaaslike direkteur, plaaslike
komiteelid of werknemer van 'n bouvereniging of beheermaatskappy, of 'n
firma waarin so 'n persoon 'n regstreekse belang het, wat—
20 (a) 'n voordeel van enige persoon aanneem vir of in verband met enige
voorskot toegestaan deur daardie bouvereniging of deur die bouvereniging
ten opsigte waarvan daardie beheermaatskappy geregistreer is; of
(b) behalwe met die skriftelike toestemming van die Registrateur of op 'n
behoorlik geadverteerde openbare veiling, eiendom of 'n reg op eiendom
koop wat behoort of verhipotekeer is aan daardie bouvereniging of aan die
25 bouvereniging ten opsigte waarvan daardie beheermaatskappy geregistreer
is, en wat deur of in opdrag van die betrokke bouvereniging of by 'n
geregtelike verkoping in opdrag van enige ander persoon verkoop word,
is aan 'n misdryf skuldig."

Kort titel

15. Hierdie Wet heet die Wysigingswet op Bankinstellings, Onderlinge Bou-
30 verenigings en Bouverenigings, 1989.

