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REPUBLIEK VAN SUID-AFRIKA

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No. 11892

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1044.

26 May 1989

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

No. 53 of 1989: Financial Institutions Amendment Act, 1989.

No. 1044.

26 Mei 1989

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

No. 53 van 1989: Wysigingswet op Finansiële Instellings, 1989.

Act No. 53, 1989

FINANCIAL INSTITUTIONS 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 Insurance Act, 1943, the Pension Funds Act, 1956, and the Friendly Societies Act, 1956, so as to abolish the obligation imposed on insurers, pension funds and friendly societies to invest in prescribed assets; and to empower the Minister of Finance to make regulations which limit the amount which registered insurers, funds and societies may invest in particular kinds or categories of assets; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 17 May 1989.)

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

Amendment of section 17 of Act 27 of 1943, as substituted by section 12 of Act 10 of 1965 and amended by section 4 of Act 41 of 1966, section 2 of Act 91 of 1972, section 6 of Act 101 of 1976, section 3 of Act 94 of 1977, section 2 of Act 80 of 1978, section 4 of Act 103 of 1979, section 2 of Act 36 of 1981, section 1 of Act 82 of 1982 and section 4 of Act 86 of 1984 5

1. Section 17 of the Insurance Act, 1943, is hereby amended—
 - (a) by the deletion of subsections (2), (2A), (3), (5) and (5A); and
 - (b) by the substitution for subsections (5B) and (6) of the following subsections, respectively:

“(5B) Any regulation made under paragraph (a) (ii) or (b) (ii) of subsection (4) which prescribes a percentage that is higher than that in force at the commencement of such regulation, shall also prescribe the manner in which a domestic insurer who immediately after such commencement does not comply with the provisions of subsection (4) **[or (5)]** shall comply therewith. 15

(6) The provisions of **[subsections]** subsection (4) **[(5) and (5A)]** (except the provisions **[of subsection (4)]** as to the additional amounts referred to in paragraphs (a) and (b) of the said subsection (4)) shall *mutatis mutandis* apply to every domestic insurer in respect of his compulsory third party insurance business.”. 20

Amendment of section 18 of Act 27 of 1943, as substituted by section 13 of Act 10 of 1965 and amended by section 5 of Act 41 of 1966, section 3 of Act 91 of 1972, section 7 of Act 101 of 1976, section 4 of Act 94 of 1977, section 3 of Act 80 of 1978, section 5 of Act 103 of 1979, section 3 of Act 36 of 1981, section 2 of Act 82 of 1982 and section 5 of Act 86 of 1984 25

2. Section 18 of the Insurance Act, 1943, is hereby amended—
 - (a) by the deletion of subsections (2), (3), (5) and (5A); and

ALGEMENE VERDUIDELIKENDE NOTA:

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

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

WET

Tot wysiging van die Versekeringswet, 1943, die Wet op Pensioenfondse, 1956, en die Wet op Onderlinge Hulpverenigings, 1956, ten einde die verpligting op versekeraars, pensioenfondse en onderlinge hulpverenigings opgelê om in voorgeskrewe bates te belê, af te skaf; en die Minister van Finansies te magtig om regulasies uit te vaardig wat die bedrag beperk wat geregistreerde versekeraars, fondse en verenigings in bepaalde soorte of kategorieë bates kan belê; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 17 Mei 1989.)*

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

Wysiging van artikel 17 van Wet 27 van 1943, soos vervang deur artikel 12 van Wet 10 van 1965 en gewysig deur artikel 4 van Wet 41 van 1966, artikel 2 van Wet 91 van 1972, artikel 6 van Wet 101 van 1976, artikel 3 van Wet 94 van 1977, artikel 2 van Wet 80 van 1978, artikel 4 van Wet 103 van 1979, artikel 2 van Wet 36 van 1981, artikel 1 van Wet 82 van 1982 en artikel 4 van Wet 86 van 1984

1. Artikel 17 van die Versekeringswet, 1943, word hierby gewysig—
 - (a) deur-subartikels (2), (2A), (3), (5) en (5A) te skrap; en
 - 10 (b) deur subartikels (5B) en (6) deur onderskeidelik die volgende subartikels te vervang:

“(5B) ’n Regulasie kragtens paragraaf (a) (ii) of (b) (ii) van subartikel (4) uitgevaardig wat ’n persentasie voorskryf wat hoër is as wat van krag is by die inwerkingtreding van sodanige regulasie, skryf ook die wyse voor

15 waarop ’n binnelandse versekeraar wat onmiddellik na sodanige inwerkingtreding nie aan die voorskrifte van subartikel (4) **[of (5)]** voldoen nie, daaraan moet voldoen.

(6) Die bepalinge van **[subartikels]** subartikel (4) **[(5) en (5A)]** (uitgesonderd die bepalinge **[van subartikel (4)]** aangaande die bykomende bedrae in

20 paragraawe (a) en (b) van genoemde subartikel (4) bedoel) is *mutatis mutandis* van toepassing op elke binnelandse versekeraar ten opsigte van sy verpligte derdeparty-versekeringsbesigheid.”

Wysiging van artikel 18 van Wet 27 van 1943, soos vervang deur artikel 13 van Wet 10 van 1965 en gewysig deur artikel 5 van Wet 41 van 1966, artikel 3 van Wet 91 van 1972, artikel 7 van Wet 101 van 1976, artikel 4 van Wet 94 van 1977, artikel 3 van Wet 80 van 1978, artikel 5 van Wet 103 van 1979, artikel 3 van Wet 36 van 1981, artikel 2 van Wet 82 van 1982 en artikel 5 van Wet 86 van 1984

2. Artikel 18 van die Versekeringswet, 1943, word hierby gewysig—
 - (a) deur subartikels (2), (3), (5) en (5A) te skrap; en

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- (b) by the substitution for subsections (5B) and (6) of the following subsections, respectively:

“(5B) Any regulation made under paragraph (b) of subsection (4) which prescribes a percentage that is higher than that in force at the commencement of such regulation, shall also prescribe the manner in which a foreign insurer who immediately after such commencement does not comply with the provisions of subsection (4) **[or (5)]** shall comply therewith. 5

(6) The provisions of **[subsections]** subsection (4) **[(5) and (5A)]** (except the provisions **[of subsection (4)]** as to the additional amount referred to in the said subsection (4)) shall *mutatis mutandis* apply to every foreign insurer in respect of his compulsory third party insurance business.”. 10

Repeal of section 18bis of Act 27 of 1943, as substituted by section 4 of Act 91 of 1972 and amended by section 5 of Act 94 of 1977, section 6 of Act 103 of 1979, section 7 of Act 99 of 1980 and section 6 of Act 86 of 1984

3. Section 18bis of the Insurance Act, 1943, is hereby repealed. 15

Repeal of section 18ter of Act 27 of 1943, as inserted by section 4 of Act 80 of 1978

4. Section 18ter of the Insurance Act, 1943, is hereby repealed.

Amendment of section 29bis of Act 27 of 1943, as inserted by section 23 of Act 10 of 1965 and amended by section 11 of Act 103 of 1979

5. Section 29bis of the Insurance Act, 1943, is hereby amended by the substitution for subsection (1) of the following subsection: 20

“(1) If any registered insurer fails to comply within a period of thirty days after having been called upon in writing by the registrar to do so, with any requirement of the registrar in terms of subsection (7) of section six or any provisions of section *eleven, twelve, fourteen, seventeen or eighteen* **[including any such provision as applied by section *eighteen bis*]**, the registrar may, with the consent of the Minister, by notice in writing prohibit such insurer, with effect from a date specified in the notice, from issuing any further policies other than paid-up policies in terms of subsection (2) of section *sixty-two* and such other policies as the registrar may permit, or extending any existing policy by endorsement, until such time as such insurer has satisfied the registrar that he is complying with the said requirement or provisions, whereupon the registrar shall forthwith in writing withdraw the prohibition.”. 25 30

Amendment of section 60 of Act 27 of 1943, as substituted by section 8 of Act 41 of 1966 and amended by section 2 of Act 65 of 1968 and section 7 of Act 86 of 1984 35

6. Section 60 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (l) of subsection (1) of the following paragraph:

“(l) The moneys deposited in the trust account aforesaid may be invested in assets of the kinds mentioned in the Third Schedule, other than those mentioned in items 1, 7 and 8 **[provided—** 40
(i) such assets include assets of the kind mentioned in Part I of the Third Schedule, which together with any credit balance in the trust account shall have an aggregate value not less than fifty per cent of the amount of such balance and all assets in which such moneys have so been invested].” 45

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- (b) deur subartikels (5B) en (6) deur onderskeidelik die volgende subartikels te vervang:

5 “(5B) ’n Regulasie kragtens paragraaf (b) van subartikel (4) uitgevaardig wat ’n persentasie voorskryf wat hoër is as wat van krag is by die inwerkingtreding van sodanige regulasie, skryf ook die wyse voor waarop ’n buitelandse versekeraar wat onmiddellik na sodanige inwerkingtreding nie aan die voorskrifte van subartikel (4) **[of (5)]** voldoen nie, daaraan moet voldoen.

10 (6) Die bepalinge van **[subartikels]** subartikel (4) **[(5) en (5A)]** (uitgesonderd die bepalinge **[van subartikel (4)]** aangaande die bykomende bedrag in genoemde subartikel (4) bedoel) is *mutatis mutandis* van toepassing op elke buitelandse versekeraar ten opsigte van sy verpligte derdeparty-versekeringsbesigheid.”

15 **Herroeping van artikel 18bis van Wet 27 van 1943, soos vervang deur artikel 4 van Wet 91 van 1972 en gewysig deur artikel 5 van Wet 94 van 1977, artikel 6 van Wet 103 van 1979, artikel 7 van Wet 99 van 1980 en artikel 6 van Wet 86 van 1984**

3. Artikel 18bis van die Versekeringswet, 1943, word hierby herroep.

Herroeping van artikel 18ter van Wet 27 van 1984, soos ingevoeg deur artikel 4 van Wet 80 van 1978

20 4. Artikel 18ter van die Versekeringswet, 1943, word hierby herroep.

Wysiging van artikel 29bis van Wet 27 van 1943, soos ingevoeg deur artikel 23 van Wet 10 van 1965 en gewysig deur artikel 11 van Wet 103 van 1979

5. Artikel 29bis van die Versekeringswet, 1943, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

25 “(1) Indien ’n geregistreerde versekeraar versuim om binne ’n tydperk van dertig dae nadat hy deur die registrateur skriftelik daartoe aangesê is, aan ’n vereiste van die registrateur ingevolge subartikel (7) van artikel ses of ’n bepaling van artikel elf, twaalf, veertien, sewentien of agtien **[met inbegrip van so ’n bepaling soos by artikel agtien bis toegepas]** te voldoen, kan die registrateur met die toestemming van die Minister daardie versekeraar by skriftelike kennisgewing verbied om met ingang van ’n datum in die kennisgewing vermeld enige verdere polisse, behalwe opbetaalde polisse ingevolge subartikel (2) van artikel twee-en-sestig en enige ander polisse wat die registrateur toelaat, uit te reik, of ’n bestaande polis by endossement te verleng, tot tyd en wyl dié versekeraar die registrateur oortuig het dat hy aan bedoelde vereiste of bepalinge voldoen, waarop die registrateur die verbod onverwyld skriftelik intrek.”

40 **Wysiging van artikel 60 van Wet 27 van 1943, soos vervang deur artikel 8 van Wet 41 van 1966 en gewysig deur artikel 2 van Wet 65 van 1968 en artikel 7 van Wet 86 van 1984**

6. Artikel 60 van die Versekeringswet, 1943, word hierby gewysig deur paragraaf (l) van subartikel (1) deur die volgende paragraaf te vervang:

45 “(l) Die geld gedeponeer in bedoelde trustrekening kan belê word in die soorte bates in die Derde Bylae vermeld, behalwe dié in items 1, 7 en 8 bedoel **[mits—**

(i) bedoelde bates die soorte bates in Deel I van die Derde Bylae vermeld, insluit wat tesame met ’n krediet saldo in die trustrekening ’n gesamentlike waarde het van minstens vyftig persent van die bedrag van bedoelde saldo en alle bates waarin bedoelde geld aldus belê is].”

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Amendment of section 76 of Act 27 of 1943, as substituted by section 9 of Act 41 of 1966 and amended by section 13 of Act 101 of 1976, section 11 of Act 86 of 1984 and section 9 of Act 106 of 1985

7. Section 76 of the Insurance Act, 1943, is hereby amended by the insertion after paragraph (bB) of subsection (1) of the following paragraphs:

“(bC) limiting the amount which and the extent to which a registered insurer may invest in particular assets or in particular kinds or categories of assets, prescribing the basis on which the limit shall be determined and defining the kinds or categories of assets to which the limit applies;

“(bD) authorizing the registrar to grant unconditional or conditional exemption, whether unlimited or limited in duration, from provisions of the regulations contemplated in paragraph (bC);”.

Amendment of section 19 of Act 24 of 1956, as amended by section 13 of Act 80 of 1959, section 9 of Act 58 of 1966, section 1 of Act 80 of 1969, section 2 of Act 23 of 1970, section 7 of Act 91 of 1972, section 23 of Act 101 of 1976, section 11 of Act 94 of 1977, section 11 of Act 80 of 1978, section 14 of Act 103 of 1979, section 39 of Act 99 of 1980, section 14 of Act 82 of 1982, section 20 of Act 46 of 1984, section 17 of Act 86 of 1984, section 11 of Act 50 of 1986 and section 5 of Act 51 of 1988

8. Section 19 of the Pension Funds Act, 1956, is hereby amended—

(a) by the deletion of subsections (1), (2) and (3);

(b) by the substitution for paragraph (a) of subsection (6) of the following paragraph:

“(a) The [Minister may exempt either wholly or in part any fund established or conducted by a religious institution from compliance with the provisions of subsection (1) and] registrar may, under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any fund from compliance with any provision of subsection [(1),] (4), (5) or (5B) (a).”; and

(c) by the deletion of subsection (8).

Amendment of section 36 of Act 24 of 1956, as amended by section 18 of Act 103 of 1979 and section 18 of Act 86 of 1984

9. Section 36 of the Pension Funds Act, 1956, is hereby amended by the insertion after paragraph (bA) of the following paragraphs:

“(bB) limiting the amount which and the extent to which a fund may invest in particular assets or in particular kinds or categories of assets, prescribing the basis on which the limit shall be determined and defining the kinds or categories of assets to which the limit applies;

“(bC) authorizing the registrar to grant unconditional or conditional exemption, whether unlimited or limited in duration, from provisions of the regulations contemplated in paragraph (bB);”.

Amendment of section 20 of Act 25 of 1956, as amended by section 15 of Act 80 of 1959, section 32 of Act 43 of 1975, section 28 of Act 101 of 1976 and section 43 of Act 99 of 1980

10. Section 20 of the Friendly Societies Act, 1956, is hereby amended—

(a) by the deletion of subsections (2), (3) and (4); and

(b) by the substitution for subsection (6) of the following subsection:

“(6) The [Minister may exempt either wholly or in part any society established or conducted by a religious institution from compliance with the provisions of subsection (2), and the] registrar may, under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any society from compliance with any provision of subsection [(2) or] (5).”.

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Wysiging van artikel 76 van Wet 27 van 1943, soos vervang deur artikel 9 van Wet 41 van 1966 en gewysig deur artikel 13 van Wet 101 van 1976, artikel 11 van Wet 86 van 1984 en artikel 9 van Wet 106 van 1985

7. Artikel 76 van die Versekeringswet, 1943, word hierby gewysig deur na 5 paragraaf (bB) van subartikel (l) die volgende paragrawe in te voeg:

- “(bC) wat ’n perk plaas op die bedrag wat en die mate waarin ’n geregistreerde
versekeraar in bepaalde bates of in bepaalde soorte of kategorieë bates kan
belê, die grondslag voorskryf waarop die perk bepaal word en die soorte of
kategorieë bates omskryf waarop die perk van toepassing is;
10 “(bD) wat die registrateur magtig om onvoorwaardelike of voorwaardelike vry-
stelling te verleen, hetsy onbeperk of beperk in duur, van bepalings van die
regulasies in paragraaf (bC) beoog;”.

- Wysiging van artikel 19 van Wet 24 van 1956, soos gewysig deur artikel 13 van Wet
80 van 1959, artikel 9 van Wet 58 van 1966, artikel 1 van Wet 80 van 1969, artikel 2
15 van Wet 23 van 1970, artikel 7 van Wet 91 van 1972, artikel 23 van Wet 101 van 1976,
artikel 11 van Wet 94 van 1977, artikel 11 van Wet 80 van 1978, artikel 14 van Wet
103 van 1979, artikel 39 van Wet 99 van 1980, artikel 14 van Wet 82 van 1982, artikel
20 van Wet 46 van 1984, artikel 17 van Wet 86 van 1984, artikel 11 van Wet 50 van
1986 en artikel 5 van Wet 51 van 1988

- 20 8. Artikel 19 van die Wet op Pensioenfondse, 1956, word hierby gewysig—

(a) deur subartikels (1), (2) en (3) te skrap;

(b) deur paragraaf (a) van subartikel (6) deur die volgende paragraaf te
vervang:

- 25 “(a) Die [Minister kan enige fonds opgerig of gedryf deur ’n godsdienstige
inrigting algeheel of gedeeltelik vrystel van voldoening aan die bepalings
van subartikel (1) en] registrateur kan, onder buitengewone omstan-
dighede, en op die voorwaardes en vir die tydperke wat hy mag bepaal,
enige fonds tydelik vrystel van voldoening aan enige bepaling van
subartikel [(1),] (4), (5) of (5B) (a).”; en

- 30 (c) deur subartikel (8) te skrap.

Wysiging van artikel 36 van Wet 24 van 1956, soos gewysig deur artikel 18 van Wet
103 van 1979 en artikel 18 van Wet 86 van 1984

9. Artikel 36 van die Wet op Pensioenfondse, 1956, word hierby gewysig deur die
volgende paragrawe na paragraaf (bA) in te voeg:

- 35 “(bB) wat ’n perk plaas op die bedrag wat en die mate waarin ’n fonds in bepaalde
bates of in bepaalde soorte of kategorieë bates kan belê, die grondslag
voorskryf waarop die perk bepaal word en die soorte of kategorieë bates
omskryf waarop die perk van toepassing is;

- 40 “(bC) wat die registrateur magtig om onvoorwaardelike of voorwaardelike vry-
stelling te verleen; hetsy onbeperk of beperk in duur, van bepalings van die
regulasies in paragraaf (bB) beoog;”.

Wysiging van artikel 20 van Wet 25 van 1956, soos gewysig deur artikel 15 van Wet
80 van 1959, artikel 32 van Wet 43 van 1975, artikel 28 van Wet 101 van 1976 en
artikel 43 van Wet 99 van 1980

- 45 10. Artikel 20 van die Wet op Onderlinge Hulpverenigings, 1956, word hierby
gewysig—

(a) deur subartikels (2), (3) en (4) te skrap; en

(b) deur subartikel (6) deur die volgende subartikel te vervang:

- 50 “(6) Die [Minister kan enige vereniging opgerig of gedryf deur ’n
godsdienstige inrigting algeheel of gedeeltelik vrystel van voldoening aan die
bepalings van subartikel (2), en die] registrateur kan, onder buitengewone
omstandighede, en op die voorwaardes en vir die tydperke wat hy mag
bepaal, enige vereniging tydelik vrystel van voldoening aan enige bepaling
van subartikel [(2) of] (5).”.

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Amendment of section 47 of Act 25 of 1956, as amended by section 26 of Act 103 of 1979 and section 21 of Act 86 of 1984

11. Section 47 of the Friendly Societies Act, 1956, is hereby amended by the insertion after paragraph (bA) of the following paragraphs:

- “(bB) limiting, notwithstanding the provisions of section 20 (1), the amount which 5
and the extent to which a society may invest in particular assets or in
particular kinds or categories of assets, prescribing the basis on which the
limit shall be determined and defining the kinds or categories of assets to
which the limit applies;
“(bC) authorizing the registrar to grant unconditional or conditional exemption, 10
whether unlimited or limited in duration, from provisions of the regulations
contemplated in paragraph (bB);”.

Short title and commencement

12. (1) This Act shall be called the Financial Institutions Amendment Act, 1989, and shall come into operation on a date to be fixed by the State President by 15
proclamation in the *Gazette*.

(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.