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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1513.

10 July 1991

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

No. 119 of 1991: Financial Institutions Second Amendment Act, 1991

No. 1513.

10 Julie 1991

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

No. 119 van 1991: Tweede Wysigingswet op Finansiële Instellings, 1991

GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Insurance Act, 1943, so as to increase the amount which, in so far as it relates to life policies, is protected against creditors; and to amend the Pension Funds Act, 1956, so as to provide for the registration of pension funds to which the State contributes financially; for the conferring of legal personality on such funds; for the continuation of the assets, rights, liabilities and obligations of such funds; and for the application of the said Act and the rules of such funds to the State; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 27 June 1991.)

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

Amendment of sections 39, 42 and 44 of Act 27 of 1943, as amended by sections 14, 16 and 17, respectively, of Act 39 of 1969

1. Sections 39, 42 and 44 of the Insurance Act, 1943, are hereby amended by the substitution for the words “ten thousand”, wherever they occur therein, of the words “thirty thousand”. 5

Insertion of sections 4A, 4B and 4C in Act 24 of 1956

2. The Pension Funds Act, 1956, is hereby amended by the insertion after section 4 of the following sections: 10

“Registration of pension funds to which State contributes financially

4A. (1) Notwithstanding anything to the contrary contained in any law, the Minister may, after consultation with the Registrar of Pension Funds, by regulation provide for a management board for a pension fund to which the State contributes financially. 15

(2) If a management board has been established for a pension fund as is contemplated in subsection (1), such pension fund may, with the consent of the Minister, apply in terms of section 4 for registration.

(3) When an application has been made in terms of subsection (2), the provisions of this Act shall apply to the pension fund concerned, in so far as they can be applied, and as if the pension fund were a pension fund as defined in paragraph (b) of the definition of “pension fund organization” in section 1. 20

(4) The State President may by proclamation in the *Gazette* make such regulations as he may deem necessary or expedient to give effect to the provisions of subsections (1), (2) and (3), including regulations whereby— 25

ALGEMENE VERDUIDELIKENDE NOTA:

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

WET

Tot wysiging van die Versekeringswet, 1943, ten einde die bedrag te verhoog wat, vir sover dit lewenspolisse betref, teen skuldeisers beskerm is; en tot wysiging van die Wet op Pensioenfondse, 1956, ten einde voorsiening te maak vir die registrasie van pensioenfondse waartoe die Staat geldelik bydra; vir die verlening van regs persoonlikheid aan sodanige fondse; vir die voortbestaan van die bates, regte, laste en verpligtinge van sodanige fondse; en vir die toepassing van genoemde Wet en die statute van sodanige fondse op die Staat; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)

(Goedgekeur op 27 Junie 1991.)

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

Wysiging van artikels 39, 42 en 44 van Wet 27 van 1943, soos gewysig deur onderskeidelik artikels 14, 16 en 17 van Wet 39 van 1969

- 5 1. Artikels 39, 42 en 44 van die Versekeringswet, 1943, word hierby gewysig deur die woord "tienduisend", oral waar dit daarin voorkom, deur die woord "dertigduisend" te vervang.

Invoeging van artikels 4A, 4B en 4C in Wet 24 van 1956

- 10 2. Die Wet op Pensioenfondse, 1956, word hierby gewysig deur na artikel 4 die volgende artikels in te voeg:

"Registrasie van pensioenfondse waartoe Staat geldelik bydra

4A. (1) Ondanks andersluidende bepalings van die een of ander wet kan die Minister, na oorleg met die Registrateur van Pensioenfondse, by regulasie voorsiening maak vir 'n bestuursraad vir 'n pensioenfondse waartoe die Staat geldelik bydra.

(2) Indien 'n bestuursraad vir 'n pensioenfondse ingestel is soos in subartikel (1) beoog, kan die pensioenfondse, met die instemming van die Minister, ingevolge artikel 4 aansoek doen om registrasie.

(3) Wanneer 'n aansoek ingevolge subartikel (2) gedoen is, is die bepalings van hierdie Wet van toepassing op die betrokke pensioenfondse, vir sover dit toegepas kan word, en asof die pensioenfondse 'n pensioenfondse is soos omskryf in paragraaf (b) van die omskrywing van "pensioenfondseorganisasie" in artikel 1.

(4) Die Staatspresident kan by proklamasie in die *Staatskoerant* regulasies uitvaardig wat hy nodig of dienstig ag om aan die bepalings van subartikels (1), (2) en (3) gevolg te gee, met inbegrip van regulasies waarby—

- (a) any provision of this Act or any other law is repealed or amended;
- (b) the carrying on of the business of a pension fund referred to in subsection (1) is regulated from the date of the application for registration thereof until the date of registration.

Effect of registration of pension fund referred to in section 4A

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4B. (1) On the registration of a pension fund referred to in section 4A it shall become a juristic person.

(2) Subject to the provisions of subsections (3) and (4), the registration of a pension fund referred to in section 4A shall not affect the assets, rights, liabilities, obligations and membership of such pension fund.

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(3) Regulations referred to in section 4A(4) may also provide for the termination of the membership of certain persons of a pension fund referred to in section 4A which has been registered and for their membership of any other pension fund, and the passing of the obligations of the first-mentioned fund towards dependants and nominees of members thereof to the last-mentioned pension fund.

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Transfer to pension fund referred to in section 4A of its assets held by another

4C. (1) If any person holds any assets on behalf of a pension fund referred to in section 4A or has on behalf of any such pension fund invested any assets in any stock, debentures, securities or financial instruments, he shall, on production to him of the certificate of provisional registration or the certificate of registration in respect of such pension fund—

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- (a) transfer those assets into the name of such pension fund;
- (b) take such steps as may be necessary to ensure that on such stock, debentures, securities or financial instruments issued in his name and in any relevant register such endorsements are made as may be necessary to show that the ownership in such stock, debentures, securities or financial instruments vests in such pension fund; and
- (c) if requested thereto by such pension fund, transfer to such fund the stock, debentures, securities or financial instruments vested in it.

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(2) No stamp duty, registration fee or costs shall be payable in respect of any transfer or endorsement referred to in subsection (1)."

Substitution of section 40 of Act 24 of 1956

3. The following section is hereby substituted for section 40 of the Pension Funds Act, 1956:

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"Act in certain respects, and certain rules, binding on State

40. From the date of the registration of a pension fund referred to in section 4A the provisions of this Act, excluding the provisions of section 37, in so far as they relate to such pension fund, and the rules of such pension fund, shall be binding on the State."

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Short title and commencement

4. (1) This Act shall be called the Financial Institutions Second Amendment Act, 1991, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

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

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- (a) 'n bepaling van hierdie Wet of 'n ander wet herroep of gewysig word;
- (b) die dryf van die besigheid van 'n pensioenfonds in subartikel (1) vermeld, gereël word vanaf die datum van aansoek om registrasie daarvan tot die datum van registrasie.

Uitwerking van registrasie van pensioenfonds vermeld in artikel 4A

4B. (1) By die registrasie van 'n pensioenfonds vermeld in artikel 4A word dit 'n regs persoon.

(2) Behoudens die bepalings van subartikels (3) en (4) raak die registrasie van 'n pensioenfonds vermeld in artikel 4A nie die bates, regte, laste, verpligtings en lidmaatskap van dié pensioenfonds nie.

(3) Regulasies bedoel in artikel 4A(4) kan ook voorsiening maak vir die beëindiging van die lidmaatskap van sekere persone van 'n pensioenfonds vermeld in artikel 4A wat geregistreer is en vir hul lidmaatskap van 'n ander pensioenfonds, en die oorgaan van die verpligtinge van eersgenoemde pensioenfonds teenoor afhanklikes en benoemdes van lede daarvan na laasgenoemde pensioenfonds.

Oordrag aan pensioenfonds vermeld in artikel 4A, van sy bates wat iemand anders besit

4C. (1) Indien iemand bates ten behoeve van 'n pensioenfonds vermeld in artikel 4A besit of bates ten behoeve van so 'n pensioenfonds belê het in effekte, obligasies, sekuriteite of finansiële instrumente, moet hy, by oorlegging aan hom van die sertifikaat van voorlopige registrasie of die registrasiesertifikaat ten opsigte van dié pensioenfonds—

- (a) daardie bates op die naam van dié pensioenfonds oordra;
- (b) die stappe doen wat nodig is om te verseker dat op daardie effekte, obligasies, sekuriteite of finansiële instrumente wat op sy naam uitgereik is en in enige tersaaklike register die aantekeninge aangebring word wat nodig is om aan te dui dat die eiendomsreg op dié effekte, obligasies, sekuriteite of finansiële instrumente by daardie pensioenfonds berus; en
- (c) indien deur dié pensioenfonds daartoe versoek, die effekte, obligasies, sekuriteite of finansiële instrumente wat by die pensioenfonds berus, aan dié fonds oordra.

(2) Geen seëlreg, registrasiegeld of koste is betaalbaar nie ten opsigte van 'n oordrag of aantekening bedoel in subartikel (1).”.

Vervanging van artikel 40 van Wet 24 van 1956

3. Artikel 40 van die Wet op Pensioenfondse, 1956, word hierby deur die volgende artikel vervang:

“Wet in sekere opsigte, en sekere statute, bindend vir Staat

40. Vanaf die datum van registrasie van 'n pensioenfonds vermeld in artikel 4A is die bepalings van hierdie Wet, uitgesonderd die bepalings van artikel 37, vir sover hulle op dié pensioenfonds betrekking het, en die statute van dié pensioenfonds, bindend vir die Staat.”.

Kort titel en inwerkingtreding

4. (1) Hierdie Wet heet die Tweede Wysigingswet op Finansiële Instellings, 1991, en die bepalings daarvan tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

En werking van registratie van pensioenfonds vermeld in artikel 4A

Ordnung des Personalstands vermindert in Artikel 14. van de hiere wet

Wet in sekere omstandigheden staat, bindend vir Staat

Not all of the following