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**REPUBLIC OF
CISKEI**



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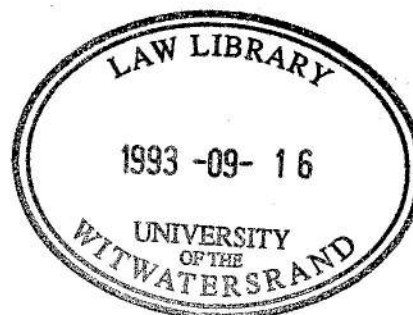
No. 90

DEPARTMENT OF THE COUNCIL OF STATE

GOVERNMENT NOTICE No. 66 OF 1993

It is hereby notified that the Chairman of the Council of State has assented to the following decree which is hereby published for general information:-

**BUILDING SOCIETIES AMENDMENT DECREE, 1993
Decree No. 15 of 1993**



COUNCIL OF STATE — REPUBLIC OF CISKEI

BUILDING SOCIETIES AMENDMENT DECREE, 1993

DECREE

To amend the Building Societies Act, 1965.

[English text signed by the Chairman of the Council of State. Assented to on 12 August 1993.]

BE IT DECREED by the Council of State of the Republic of Ciskei, as follows:-

1. Amendment of section 1 of Act 24 of 1965, as amended by section 1 of Act 64 of 1968, section 5 of Act 67 of 1973, section 54 of Act 101 of 1976, section 22 of Act 80 of 1978 and section 50 of Act 99 of 1980. — Section 1 of the Building Societies Act, 1965 (hereinafter referred to as the principal Act) is hereby amended -

- (a) by the deletion of the definitions of "administration board", "advance", "approved securities", "bank" or "banker", "building society", "dwelling house", "fixed term mortgage of immovable property", "Gazette", "general reserve", "Land Bank", "long-term liability", "medium-term liability", "mortgage of urban immovable property", "National Finance Corporation", "owing", "prescribed investments", "reducible mortgage of immovable property", "savings account", "savings deposit", "short-term liability", "territory" and "transmission deposit";
- (b) by the insertion before the definition of "board" of the following definition:

" 'associate', in relation to a permanent society, means -

 - (a) a company referred to in paragraph (a)(iii), (mB) or (mF) of section 22(1) in which the society holds shares;
 - (b) a registered insurer referred to in paragraph (m) of that section in which the society holds shares;
 - (c) a subsidiary, as defined in section 1 of the Companies Act, 1973 (Act No. 61 of 1973), of a company or insurer referred to in paragraph (a) or (b);
 - (d) except in sections 49E, 49F and 49G, a person who is a director or the chief executive officer or secretary or a manager or other executive officer of the society or of a company, insurer or subsidiary referred to in paragraphs (a), (b) and (c) respectively or of a pension fund referred to in paragraph (e);
 - (e) a pension fund established in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956) of which the employees of the society are members; or
 - (f) a partner of the society;"
- (c) by the insertion before the definition of "court" of the following definition:

" 'business advance' means any advance or loan against security of a mortgage, irrespective of whether collateral security is furnished or not, on -

 - (a) urban immovable property which is used or intended, or in terms of subsection (2) deemed to be used or to be intended, for other purposes (including boarding house or hotel purposes) than residential purposes; or
 - (b) a right to immovable property which property is used or intended, or in terms of the said subsection (2) deemed to be used or to be intended, for such other purposes contemplated in paragraph (a);"
- (d) by the substitution for the definition of "court" of the following definition:

" 'court', in relation to a society and without prejudice to the jurisdiction of any magistrate's court in relation to any offence under this Act, means the general division of the Supreme Court;"

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- (e) by the insertion after the definition of "court" of the following definition:
- "'deposit-taking institution' means a deposit-taking institution as defined in section 1 of the Deposit-taking Institutions Decree, 1993;"
- (f) by the substitution in the definition of "discount house" for the expression "Banks Act, 1965" of the expression "Deposit-taking Institutions Decree, 1993;"
- (g) by the insertion before the definition of "liquid assets" of the following definitions:
- "'general advance' means any advance or loan which is not a housing or business advance and includes any other payment of an amount in terms of an arrangement by which the society making the payment acquires the right to recover an amount at least equal to that amount, irrespective of whether the person from whom the amount may be recovered is the person to whom the payment was made;
- 'housing advance' means any advance or loan against security of a mortgage, irrespective of whether collateral security is furnished or not, on -
- (a) urban immovable property which is used or intended, or in terms of subsection (2) deemed to be used or to be intended, for residential purposes, excluding boarding house or hotel purposes; or
- (b) a right to urban immovable property which property is used or intended, or in terms of the said subsection (2) deemed to be used or to be intended, for residential purposes contemplated in paragraph (a);
- 'indefinite share capital' means the aggregate amount paid up on shares issued in terms of section 28(1)(a) or which immediately before the substitution of section 30 by section 16 of the Building Societies Amendment Decree, 1993, were deemed to be shares for an indefinite period;
- 'liability', in relation to a society, includes a liability towards the members of the society in respect of its share capital, but excludes a liability towards such members in respect of its reserves and excluding a liability in respect of debentures issued in terms of section 30(4);"
- (h) by the substitution for the definition of "liquid assets" of the following definition:
- "'liquid assets' mean -
- (a) Reserve Bank notes, subsidiary coin and gold coin;
- (b) any credit balance in an account maintained with the Reserve Bank in terms of section 32;
- (c) for a period terminating on a date fixed by the Minister by notice in the *Gazette* (which date shall be a date not later than two years as from the date of commencement of the Building Societies Amendment Decree, 1993), loans repayable on demand to such deposit-taking institutions as the Minister may, with reference to the nature of the facilities offered by such deposit-taking institutions, designate by notice in the *Gazette*;
- (d) Treasury bills of the Republic of Ciskei;
- (e) negotiable loan levy certificates issued by the Treasury in respect of any loan levy on companies imposed in terms of any law and with a maturity of not more than three years to their respective redemption dates;
- (f) stocks issued under section 21 of the Exchequer and Audit Act, 1985 (Act No. 28 of 1985) with a maturity of not more than three years to the last redemption date;
- (g) acceptances of a deposit-taking institution which are discountable by the Reserve Bank;
- (h) securities of the Reserve Bank with a maturity of not more than three years to the last redemption date; or
- (i) self-liquidating bills or promissory notes arising out of the movement of goods with a maturity not exceeding 120 days and which are discountable by the Reserve Bank;"

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- (i) by the insertion after the definition of "Minister" of the following definition:
" 'month' means any one of the twelve months of the year;";
- (j) by the insertion before the definition of "officer" of the following definition:
" 'mutual building society' means an association of persons established under this Act to carry on business as a building society in accordance with this Act and includes a building society referred to in section 5(10);
- (k) by the insertion after the definition of "officer" of the following definition:
" 'operating capital', in relation to any day, means the amount of a society's total capital as at that day less the sum of -
 - (a) the amount which its liquid assets shall at least amount to on that day in terms of section 31;
 - (b) the book value of its tangible movable assets and immovable assets as at that day;
 - (c) the amount owing to it on that day by any of its associates;
 - (d) the amount of its investments which immediately before the substitution of section 32 by the Building Societies Amendment Decree, 1993 were held by it in compliance with that section, in so far as those investments do not rank as liquid assets or have not since the substitution of the said section been realized; and
 - (e) the value of shares of which it is the holder on that day taken at the price at which they were acquired;";
- (l) by the substitution for the definition of "paid-up share capital" of the following definition:
" 'paid-up share capital' means the aggregate amount paid up on all shares referred to in the definition of 'indefinite share capital' and on all shares issued in terms of section 28(1)(b);";
- (m) by the substitution for the definition of "registrar" of the following definition:
" 'registrar' means the Registrar of Deposit-taking Institutions designated under section 4 of the Deposit-taking Institutions Decree, 1993;";
- (n) by the substitution for the definition of "Republic" of the following definition:
" 'Republic' means the Republic of Ciskei and, for the purposes of section 20, includes the Republic of South Africa and any territory which formerly formed part of that state";
- (o) by the insertion after the definition of "Republic" of the following definitions:
" 'Reserve Bank' means the South African Reserve Bank;
'right', in relation to urban immovable property, means any right to urban immovable property which under any law admits of being mortgaged, including any other right to urban immovable property recognized by the registrar as a right to urban immovable property for the purposes of this Act;";
- (p) by the substitution for the definition of "savings account" of the following definition:
" 'savings account' means an account contemplated in section 41(1);";
- (q) by the substitution for the definition of "society" of the following definition:
" 'society' means a mutual building society registered under this Act;";
- (r) by the insertion after the definition of "subscription share" of the following definitions:
" 'terminating society' means a society referred to in section 4(2) (b) or (3);
'transmission account' means an account contemplated in section 45(1);";
- (s) by the insertion before the definition of "urban immovable property" of the following definition:

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"'unimpaired reserves' means funds obtained from actual earnings or by way of recoveries or a surplus on the realization of capital assets and which have been set aside as a general or special reserve and are disclosed as such a reserve in the annual accounts referred to in section 35, excluding -

- (a) a fund required to be maintained in terms of any other law; or
- (b) a surplus resulting from the revaluation of an asset;"

(t) by the substitution for the definition of "urban immovable property" of the following definition:

"'urban immovable property' means -

- (a) any erf, lot, stand or other piece of land situated in a township as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (b) any surveyed portion of a piece of land laid out as a township, but not formally approved or proclaimed as a township referred to in paragraph (a);
- (c) any small-holding or other small piece of land situated in the vicinity of a township referred to in paragraph (a) and in an area which is, or is intended to be, mainly a residential area;
- (d) any erf, lot, stand or other piece of land situated in a township established in terms of Proclamation R293 of 1962 or section 22 of the Land Use Regulation Act, 1987 (Act 15 of 1987);
- (e) any unit as defined in section 1 of the Sectional Titles Act, 1971 (Act No. 66 of 1971); or
- (f) any other land or category of land recognized by the registrar as urban immovable property for the purposes of this Act;" and

(u) by the addition of the following subsection, the existing section becoming subsection (1):

"(2) Immovable property on which a building has been or is to be erected which is, or is intended to be, used for both residential and other purposes shall for the purposes of this Act be deemed to be used or intended to be used -

- (a) for residential purposes if more than 50 per cent of the floor area of the building is or is to be used for residential purposes or purposes incidental thereto; or
- (b) for such other purposes if 50 per cent or less of the floor area of the building is or is to be used for residential purposes incidental thereto."

2. Substitution of sections 2 and 3 of Act 24 of 1965. — The following sections are hereby substituted for sections 2 and 3 of the principal Act:

"2. Application of Act. — (1) The provisions of this Act shall apply in respect of mutual building societies.

(2) Any question as to whether or not any association of persons is a building society to which the provisions of this Act apply shall, subject to section 3, be determined by the registrar.

3. Functions of registrar. — (1) Subject to appeal to the Minister, the registrar may exercise all such powers and shall perform all such duties as are assigned to the registrar by this Act.

(2) Every appeal to the Minister in terms of subsection (1) shall be prosecuted in the manner and within the time prescribed by regulation."

3. Substitution of sections 4, 5, 6 and 7 of Act 24 of 1965. — The following sections are hereby substituted for sections 4, 5, 6 and 7 of the principal Act:

"4. Formation of a society. — (1) Any seven or more persons (hereinafter referred to as the founders) may form a mutual building society by subscribing their names to rules which have, after submission in draft form to and provisional approval by the registrar, been agreed to by them for the government of such society.

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(2) A mutual building society may be -

- (a) a permanent society, that is to say, a society which is not by its rules bound to terminate upon the expiration of a fixed period or upon the occurrence of an event specified in its rules; or
- (b) a terminating society, that is to say, a society which by its rules is to terminate upon the expiration of a fixed period or upon the occurrence of an event specified in its rules.

(3) For the purposes of this Act, a society shall be deemed to be a terminating society if, notwithstanding the fact that the society is not by its rules bound to terminate upon the expiration of a period or the occurrence of an event, such society applies to the registrar for registration as a terminating society and its rules provide for the organization of the members of the society according to sections, for the separate administration of the affairs of each section or the joint administration of the affairs of all sections and for the termination of each section upon the expiration of a fixed period or upon the occurrence of an event specified in the rules of the society.

(4) No person shall establish a mutual building society without the prior permission in writing of the registrar and the registrar shall not grant such permission unless he has satisfied himself -

- (a) that the society which is established will probably, regard being had to the requirements of sections 5 and 6, be provisionally registrable as a mutual building society under this Act; and
- (b) that the establishment of such a society will be in the public interest.

(5) For the purposes of sub-section (4) the registrar may require the persons intending to establish a mutual building society to furnish him with such particulars and information as he may deem necessary and may require such persons or any of them to appear before him in person to furnish any further particulars or information that he may require.

5. Registration of societies. — (1) An application for the registration of a mutual building society shall be lodged with the registrar in the prescribed form as soon as practicable after the formation of the society.

(2) The application shall be accompanied by two copies of the rules agreed to by the founders for the government of the society and signed by them and the intended secretary.

(3) The rules shall be in an official language and either typewritten or duplicated or printed and shall be signed in original by at least seven founders and opposite every signature there shall appear in legible characters the full name, occupation and residential or business address of the subscriber and the number and type of shares he takes and the nominal value of such shares.

(4) The registrar shall, after consideration of such rules and such further information and arguments as may be submitted to him by such persons, determine whether according to its rules the society is or is not a mutual building society.

- (5) (a) If the registrar determines that the society is not a mutual building society he shall decline to register the society.
- (b) Where the registrar determines that the society is a mutual building society he shall, upon payment to him of the prescribed fee, register the society provisionally under this Act as a mutual building society, if he is satisfied that its rules are in conformity with this Act and are financially sound and that the proposed methods of transacting the business of the society as laid down in the rules are not undesirable and shall, after such registration, return one copy of the rules, with his approval and the date of such registration of the society endorsed thereon to the intended secretary of the society.
- (c) The registrar shall, when registering any society, record whether the society is registered as a permanent society or as a terminating society.

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(6) The certificate of provisional registration of a society shall be valid for a period of twelve months from the date of issue thereof but the registrar may, at any time before the expiry of such period or any extended period and at his discretion and subject to such conditions or limitations (not inconsistent with this Act) as he may deem desirable, extend the period of validity of such certificate from time to time for further periods of twelve months each up to a maximum of five years in all.

(7) No society shall be registered initially otherwise than provisionally but, if the registrar is at any time while a society is provisionally registered satisfied that the society is in a financially sound condition, that the methods of transacting the business of the society are not undesirable and that the society is complying with the requirements of this Act or, in so far as section 30 is applicable, that the society will probably within a further period of not more than five years be able to comply with that section, he shall register the society finally under this Act and issue to the society a certificate of final registration indicating whether it is registered as a permanent or a terminating society and thereupon the society shall cease to be provisionally registered.

(8) If, after the expiry of the period of five years referred to in subsection (6), the society is unable to qualify for final registration it shall forthwith cease to carry on the business of a building society and the board shall, subject to the provisions of this Act, arrange either for the transfer of the assets and liabilities of the society to another society or for the voluntary winding-up of the society.

(9) Any person, who in connection with an application for registration or the renewal or extension of a provisional registration of a society makes any false statement knowing it to be false, shall be guilty of an offence and liable on conviction to the penalties applicable in respect of the crime of fraud or falsitas.

(10) A building society which immediately prior to the commencement of the Building Societies Amendment Decree, 1993 was finally or provisionally registered as a building society in terms of this Act shall be deemed to have been duly so registered under this Act as amended by the said decree.

6. Registered building society to be body corporate. — (1) A society shall be a body corporate capable of suing or 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) Whenever an association which is registered under the Companies Act, 1973 (Act No. 61 of 1973) is registered under this Act, the registrar shall notify the registrar of companies in writing of such registration and, upon receipt by the registrar of companies of such notice, he shall remove the name of such association from the register of companies.

7. Name of society. — (1) A mutual building society shall not be registered under a name which -

- (a) is identical to the name of an existing mutual building society or any deposit-taking institution;
- (b) so closely resembles the name of an existing mutual building society or any deposit-taking institution that the one is likely to be mistaken for the other;
- (c) is identical to the name under which any other mutual building society or any deposit-taking institution was previously registered if there exists reasonable ground for objection against the use of that name by the mutual building society; or
- (d) will probably mislead the public.

(2)

(3) If through inadvertence or otherwise a society is registered in conflict with the provisions of sub-section (1) the registrar shall, on becoming aware of the fact, in writing direct the society to change its name and the provisions of subsection (5) of section 10 shall apply *mutatis mutandis* in respect of any such change of name.

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(4) Any society which fails within sixty days of the date of a written direction from the registrar in terms of subsection (3) or within such further period as he may in writing allow or, in the case of a society which has within the said period or further period moved the court for an order setting aside the registrar's direction, within sixty days after a final decision upholding the registrar's direction to change its name and to furnish the registrar with a suitable name to comply with such direction, shall be guilty of an offence.

(5) No society shall use or refer to itself by a name other than the name under which it is registered or an abbreviation thereof or a literal translation thereof into the other official language approved by the registrar but nothing in this subsection shall be construed as prohibiting the use by any society, in whose registered name the expression "building society", "permanent", "terminating" occurs, of a name which consists of its registered name modified by the substitution therein for the expression in question of the corresponding expression in the other official language.

(6) The words 'building society' shall form part of the name under which a society is registered and, if the society is a terminating society, the word 'terminating' shall also form part of the name."

4. Repeal of sections 9 and 10 of Act 24 of 1965. — Sections 9 and 10 of the principal Act are hereby repealed.

5. Amendment of section 11 of Act 24 of 1965. — Section 11 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) The registrar shall, as soon as practicable after the cancellation or suspension of the registration of any society under subsection (3), cause notice to that effect to be published in the *Gazette* and in a newspaper circulating in the district in which the head office of the society is situated."

6. Amendment of section 12 of Act 24 of 1965. — Section 12 of the principal Act is hereby amended by the insertion therein after subsection (1) of the following subsection:

"(1A) The objects of a society set forth in its rules under subsection (1)(b) shall confer upon it only the capacity -

- (a) to carry on business as a society in accordance with this Act; and
- (b) in addition to the business referred to in paragraph (a), to carry on such other business as in the opinion of the registrar is not inconsistent with a provision of this Act."

7. Amendment of section 14 of Act 24 of 1965. — Section 14 of the principal Act is hereby amended by the addition of the following subsection:

"(3) If a society refuses or fails to amend its rules in accordance with a requirement of the registrar under subsection (1) the registrar may deal with the proposed amendment contained in the requirement as if it were contained in a resolution adopted by the society in accordance with its rules and submitted to him in terms of section 13(2)."

8. Amendment of section 16 of Act 24 of 1965. — Section 16 of the principal Act is hereby amended by the deletion of subsection (2).

9. Amendment of section 17 of Act 24 of 1965. — Section 17 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (10) of the following paragraph:

"(10)(a) Not more than one-fifth of the total number of directors of a society shall be executive officers of that society."

10. Amendment of section 20 of Act 24 of 1965. — Section 20 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) If a society moves its head office to another place it shall within 14 days of such moving of its head office submit in writing to the registrar particulars of the place to which its head office was moved."

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11. Substitution of section 22 of Act 24 of 1965, as amended by section 5 of Act 24 of 1968, section 1 of Act 91 of 1969, section 24 of Act 80 of 1978, section 32 of Act 103 of 1979 and section 51 of Act 99 of 1980. — The following section is hereby substituted for section 22 of the principal Act:

"22. General powers of societies. — (1) A society shall, provided it is (save in so far as it is otherwise provided in this section) so authorized by its rules, have power -

- (a) (i) to acquire or retain the ownership of any land or any lease of land and to erect buildings thereon primarily required for the administration of the society's affairs, including the housing of members of its staff and from time to time to alienate any such land or terminate or cede any such lease and to acquire or hire other or further land for like purposes and to let such portion of the buildings in which the business of the society is carried on as may not be required for the purposes of the society;
- (ii) to join with any person in acquiring the ownership of any land and to erect buildings thereon, any portion of which is used by the society or its agent;
- (iii) to acquire and hold shares in any company with limited liability registered under the Companies Act, 1973 which is the owner of land with or without buildings thereon, where any portion of any building on such land is being used or any portion of any building to be erected on such land is to be used by the society or its agent and to grant loans to any such company in which it so acquires or holds shares;
- (b) (i) to buy in immovable property mortgaged to the society and to erect on such property that is vacant land dwelling houses, with or without the outbuildings incidental thereto; or
- (ii) to acquire leases of or licences to land ceded to the society in security for debt;
- (c) from time to time to raise funds by the issue, subject to the provisions of sections 28, 30 and 37, of paid-up shares or subscription shares or both paid-up shares and subscription shares of such types and denominations and with such preferential rights regarding dividends and subject to such conditions as to transfer as may be decided by the society in accordance with its rules and, subject to the provisions of this Act and the rules, to repay such shares according to the terms under which they were issued;
- (d) in the case of a permanent society -
 - (i) subject to the provisions of Chapter V, to receive deposits and to pay interest thereon;
 - (ii) subject to the provisions of section 27, to borrow money at interest, otherwise than in the form of deposits, or to arrange overdraft facilities with a bank approved by the registrar;
 - (iii) subject to the provisions of Chapter V, to grant advances and to accept security in respect of such advances;
 - (iv)
 - (v) notwithstanding anything contained in the rules of the society, to issue debentures in accordance with the provisions of section 55A;
- (e) to hold cash and make deposits and investments as authorized by section 29;
- (f) to maintain safe deposits for the use of members and others;
- (g) to negotiate the purchase or sale and the hiring or letting of immovable property on behalf of members or other persons;
- (h) to act as the agent of insurance companies or societies in effecting assurances of all kinds;
- (i) notwithstanding anything in the rules of the society, to make donations out of its available profits, whether past or present, for or to any national, public, charitable or educational purpose, organization or institution;

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- (j) to pay pensions or gratuities to, or to adopt or to establish and maintain or join with other societies or with deposit-taking institutions in adopting and maintaining pension, superannuation, benevolent or medical aid funds or schemes in respect of, its employees or the employees of a company contemplated in paragraph (a)(iii), (m), (mB) or (mF): Provided that the assets of any such fund or scheme shall not be merged with the assets of the society;
- (k) in the case of a permanent society, to grant loans to its employees;
- (l) notwithstanding anything contained in the rules of the society, to grant loans to any educational organization or institution approved by the registrar by notice in the *Gazette*;
- (m) subject to the provisions of subsection (4), to acquire and hold shares in any registered insurer as defined in section 1 of the Insurance Act, 1943;
 - (mA)
 - (mB) to acquire or establish or join with other societies or with deposit-taking institutions or with any person or companies with limited liability registered under the Companies Act, 1973, in acquiring or establishing a company with limited liability registered or to be registered under the Companies Act, 1973, the main activities of which shall be any or all of the following, namely -
 - (i) the acquisition or the retention of the ownership of any land and the development, letting or sale of any land owned by it;
 - (ii) the erection on any such land of buildings for residential purposes, together with buildings for business purposes in so far as such last-mentioned buildings constitute an essential part of a township in terms of any relevant approved township development project; and the letting of any such buildings;
 - (iii) the acquisition of shares in any other company with limited liability registered under the Companies Act, 1973 and of which the main activities are any activities mentioned in subparagraph (i), (ii), (v) or (vi);
 - (iv) the granting of loans to any company in which it has acquired shares under subparagraph (iii);
 - (v) the erection of buildings for residential purposes on land bought in under paragraph (b) by a society holding shares in it;
 - (vi) the erection of buildings for residential purposes on land on which a right of leasehold has been granted or in respect of which the grant of a right of leasehold is being contemplated;

Provided that -

- (a)
- (b) the society or the society and such other societies or such deposit-taking institutions, persons or companies shall at all times hold shares in any such company entitling the society or the society and the other societies or such deposit-taking institutions, persons or companies to a majority or preponderance of votes and to appoint a majority of the directors of any such company;
- (c) the activities of any such company so registered or to be so registered shall be subject to such directions and conditions as to their scope and nature, the manner of their performance and any particular project undertaken by such company as may be given and imposed from time to time by the Minister after consultation with the Minister of Internal Affairs and Land Tenure;
- (d) the memorandum and articles of association of any such company, in the case of such establishment thereof, and the acquisition thereof in the case of such acquisition, or any amendment of such memorandum or articles shall be subject to the prior approval of the registrar and that such memorandum or articles shall be subject to such amendment as the registrar may determine;

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- (mC) in the case of a society which has acquired or established any company under paragraph (mB), should the Minister so desire after consultation with the Minister of Internal Affairs and Land Tenure, to promote, in terms of an agreement entered into with the Minister, the provision of housing for persons in the lower income group as determined by the Minister from time to time;
 - (mD) to grant loans to any company, acquired or established under paragraph (mB), of which it is a shareholder;
 - (mE) to acquire, hold or dispose of the shares of a company with limited liability registered under the Companies Act 1973, the main activities of which are the acquisition and the retention of the ownership of immovable property and to which an advance on the security of the mortgage of immovable property which is or is to be used for the purposes of any building of which not less than 50 per cent of the floor area is used for residential purposes or purposes incidental thereto, has been or is to be granted by the society: Provided that the society shall not acquire or hold shares representing more than 25 per cent of any such company's paid-up share capital and that the society shall not invest more than R10 000 in the shares of any such company;
 - (mF) to acquire or establish or join with other societies or with deposit-taking institutions or with any persons or companies with limited liability registered under the Companies Act, 1973, in acquiring or establishing a company with limited liability registered or to be registered under the latter Act, the main activities of which shall be the rendering of administrative, accounting, technical or other services to the society or to the society and such other societies or such deposit-taking institutions, persons or companies: Provided that the provisions of paragraph (d) of the proviso to paragraph (mB) and of paragraph (mD) shall *mutatis mutandis* apply in respect of any such company;
 - (mG) to act as the agent of unit trusts, participation bond managers and, subject to the provisions of the Deposit-taking Institutions Decree, 1993, deposit-taking institutions;
 - (n) to undertake such other business as may be approved by the Minister by notice in the *Gazette*.
- (2) A society shall not undertake any business other than that authorized by this section and in particular shall not enter into any contract (other than a contract for the allotment of shares in terms of paragraph (c) of subsection (1) or for the receipt of money on deposit or loan in terms of paragraph (d) of that subsection) whereby the society agrees, in return for one or more sums or money paid to the society, to pay a sum of money at a future date or a series of sums of money at future dates.
- (3) Save with the prior consent in writing of the registrar and subject to such conditions and limitations as he may prescribe, a terminating society shall not make any investment referred to in paragraph (a) of subsection (1).
- (4) (a) No society and no associate of a society shall, either jointly or individually, hold shares in any registered insurer as defined in section 1 of the Insurance Act, 1943 to the extent to which the nominal value of those shares exceeds 30 per cent of the nominal value of all the issued shares of the insurer.
- (b) A society, which immediately before the substitution of subsection (1)(m) by the Building Societies Amendment Decree, 1993 held shares in a registered insurer under the said subsection as it then read, shall not be bound to reduce its shareholding in accordance with paragraph (a) of this subsection to the limit specified therein but, as long as that limit is exceeded, no further shares in such insurer shall be acquired by the society or any associate of the society: Provided that, if such society intends reducing its shareholding in such insurer, it shall effect such reduction by offering the shares in question in the first instance to its members in accordance with a basis approved by the registrar.

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(c) Notwithstanding the said substitution of subsection (1)(m), restrictions which were specified in subparagraphs (i) to (v) of that subsection prior to the said substitution shall remain applicable with respect to any insurer in which a society holds shares in terms of paragraph (b) of this subsection exceeding the limit specified in paragraph (a) of this subsection, for as long as the said shareholding exceeds the said limit: Provided that this paragraph shall not be construed so as to prevent such insurer from applying in accordance with the Insurance Act, 1943 to the Registrar of Insurance for registration in respect of other insurance business than the business specified in the said restrictions, but such registration shall not be granted other than on condition that -

- (i) the society undertakes in writing to reduce within five years after such registration and with due regard to the proviso to paragraph (b), its shareholding in such insurer to the limit specified in paragraph (a); and
- (ii) if such undertaking is not honoured the registration of such insurer in respect of such other insurance business shall lapse."

12. Insertion of section 23A in Act 24 of 1965. — The following section is hereby inserted in the principal Act after section 23:

"23A. Undesirable practices. — (1) A society -

- (a) shall not effect any transaction as an undisclosed principal or in any other manner otherwise than in its own name;
 - (b) shall hold all its assets in its own name, excluding any asset -
 - (i) *bona fide* hypothecated to secure an actual or potential liability; or
 - (ii) in respect of which the registrar has approved in writing that it may be held in the name of another person;
 - (c) shall not show in its annual accounts contemplated in section 35 or in any return referred to in section 34A(1)(c) as an asset any amount representing the cost of organization or extension or the purchase of a business or a loss (including a loss originating from the sale of an asset) or bad debts;
 - (d) shall not before provision has been made for the items referred to in paragraph (c) -
 - (i) open any branch or any further branch;
 - (ii) grant any agency or any further agency; or
 - (iii) pay out dividends on its shares;
 - (e) shall not guarantee the payment of any amount owing by one person to another, except -
 - (i) in accordance with a request by a person to whom the society has approved the payment of an advance, to pay the amount or portion of the amount of the advance to a particular person;
 - (ii) in accordance with a request by a depositor to pay the amount or a portion of the amount of a deposit which he has invested with the society to a particular person; or
 - (iii) in circumstances determined by the registrar in general to be circumstances in which societies may give such guarantee;
 - (f) shall not accept any valuation of urban immovable property, or of any right to urban immovable property, for the purposes of a housing or business advance unless that valuation is carried out by a person who the society on reasonable grounds believes has the necessary knowledge; or
 - (g) shall not perform any other act declared by the Minister by notice in the *Gazette* to be an undesirable practice for the purposes of this Act.
- (2) A notice under subsection (1)(g) shall come into operation on the date specified in the notice, which shall not be a date within 21 days after publication of the notice."

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13. Substitution of section 25 of Act 24 of 1965. — The following section is hereby substituted for section 25 of the principal Act:

"25. Change of name of society. — (1) A society may, with the approval of the registrar, by special resolution change its name.

(1A) Any application for the registrar's approval in terms of subsection (1) shall be lodged with the registrar before the proposed special resolution authorizing such change is laid before a general meeting of members of the society, and any such application shall be accompanied by -

(a) two copies of such proposed special resolution; and

(b) an explanation of the reasons for the resolution.

(1B) The registrar shall not grant any application referred to in subsection (1A) if he is of the opinion that the proposed name -

(a) is identical to the name of any other society or of a deposit-taking institution;

(b) so closely resembles the name of any other society or of a deposit-taking institution that the one is likely to be mistaken for the other;

(c) is identical to the name under which any other society or any deposit-taking institution was previously registered and that reasonable ground for objection against the use of that name by the applicant exists; or

(d) will probably mislead the public.

(2) Where the name of a society is changed in terms of subsection (1) the registrar shall enter the new name in his records in the place of the former name and shall issue a new certificate of registration of the society under its new name, provided the certificate previously issued by him is delivered to him for cancellation.

(3) The change of name shall not affect any right or obligation of any member thereof or any legal proceedings by or against the society, and any legal proceedings that may or could have been continued or commenced by or against it under its former name may be continued or commenced under its new name.

(4) The officer in charge of the deeds registry in which is registered any mortgage bond or any immovable property belonging to the society shall, upon production to him by the society of such bond or of the title deeds of such immovable property and a certificate by the registrar of the registration of the society under its new name and upon payment of the fees that may be payable in terms of any law relating to deeds registries, make such endorsements upon such bond or title deeds and such entries in his registers as may be necessary by reason of the change of name.

(5) If the registrar has certified in writing that in his opinion the new name of the society is so similar to its former name that both names obviously refer to the same society, any mortgage bond or title deeds registered in the former name of the society shall, unless and until it is sought to endorse such bond or title deeds regarding any transaction other than a cancellation, be deemed to have been registered in the name of the society as changed."

14. Repeal of section 26 of Act 24 of 1965. — Section 26 of the principal Act is hereby repealed.

15. Substitution of section 27 of Act 24 of 1965. — The following section is hereby substituted for section 27 of the principal Act:

"27. Loans and overdrafts. — (1) No society shall borrow money from any person other than a deposit-taking institution approved by the registrar or otherwise than in accordance with such terms as may be approved in writing by the registrar, but nothing in this subsection shall be construed as prohibiting the receipt of deposits in accordance with the rules of the society.

(2) A loan or overdraft granted to a society by such an approved institution shall not be invalidated by reason only of any contravention of this Act by the society."

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16. Substitution of section 28 of Act 24 of 1965. — The following section is hereby substituted for section 28 of the principal Act:

"28. Shares. — (1) A society shall not issue any shares other than -

(a) shares for an indefinite period, which shall be paid-up shares and of which the shareholder shall not be entitled at any time to demand redemption, and which the society shall, subject to the provisions of this section, be entitled to redeem after six months' notice to the shareholder,

(b) fixed period shares, which shall be -

(i) paid-up shares issued for periods of not less than five years,

(ii) subscription shares calculated to mature after the expiry of a period of not less than three years,

and of which the shareholder shall not be entitled to demand redemption and which the society shall not be entitled to redeem before the period of issue has expired or the share has matured.

(1A)

(1B) A society shall not issue a subscription share to any limited liability company other than an association registered in terms of section 21 of the Companies Act, 1973.

(1C) A society may, except in the case of any subscription share issued before 24 March 1965 to any limited liability company other than an association registered in terms of section 21 of the Companies Act, 1973, at any time before the expiry of the period after which a subscription share is calculated to mature, at the request of the shareholder, extend such period for a further period of not less than twelve months after the expiry of which such share is calculated to mature, in which event such share shall mature after the expiry of such period of extension and the society may thereafter from time to time similarly extend the total period after the expiry of which such share is calculated to mature, in which case such share shall mature after the expiry of any further period of such extension.

(1D) A society shall not issue a subscription share in respect of which the periodical contributions are required to be made otherwise than in equal monthly instalments, except in cases where dividends on shares in or interest on deposits with the society are used as such contributions, in which cases such dividends or interest may whenever the same becomes payable and to the actual amounts thereof be utilized as such contributions.

(1E) A society shall not transfer a subscription share from one person to another person except in the following cases:

(a) from parent to child or from grandparent to grandchild and conversely;

(b) from a deceased estate to a beneficiary;

(c) any other case approved by the registrar.

(1F) Where the period of any subscription share has been extended in terms of subsection (1C) or any subscription share has been transferred in terms of subsection (1E), the periodical contributions shall be continued.

(2) Subject to the provisions of this section a society may issue any or all of the classes of shares described in sub-section (1).

(3) No society shall purport to undertake to give more than six months' notice of its intention to redeem any indefinite share, and any undertaking so given shall not bind the society.

(4) A society shall not give notice of its intention to redeem any indefinite share before the expiration of a period of one year from the date of issue of that share.

(5) Whenever the period of issue of a paid-up fixed period share expires the society shall redeem that share.

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- (5A) (a) Whenever the period after which a subscription share is calculated to mature, or such period as extended in terms of the provisions of subsection (1C) expires, the society shall redeem that share unless the shareholder requests that it be not redeemed.
- (b) Where the subscription share is by virtue of the provisions of paragraph (a) not redeemed -
- (i) the society may pay out monthly dividends on that share;
 - (ii) the shareholder may upon giving three months' notice to the society obtain redemption of that share;
 - (iii) the society may upon giving six months' notice to the shareholder redeem that share.
- (6) Notwithstanding anything contained in this section, but subject to the provisions of section 37(5A), the registered owner of any share in a society may upon giving three months' notice obtain redemption of that share if the society then agrees to redeem it: Provided that no such share shall be redeemed before the expiration of a period of eighteen months from the date of acquisition of that share by that shareholder: Provided further that the period of eighteen months and the requirement in regard to notice shall not apply -
- (a) where the share forms part of the assets in an insolvent or deceased estate;
 - (b) where the registered owner has been notified of the intended reduction of the dividend rate in terms of sub-section (5) of section thirty-seven and he applies for redemption during the period of notice mentioned in the said sub-section;
 - (c) where the shareholder has been placed under curatorship;
 - (d) where the shareholder has been placed under judicial management or in liquidation;
 - (e) in the case of a share ceded to the society or another society or a deposit-taking institution as collateral security for a mortgage loan, if the cessionary of such share requires its redemption; or
 - (f) in such other cases as the registrar may approve either generally or in any particular case.
- (7) Notwithstanding the provisions of paragraph (b) of subsection (1) the board of a society may in its discretion, and in the manner and under the circumstances set forth in the rules of the society, repay before the date of maturity the aggregate amount of the periodical contributions made in respect of a subscription share and any accrued dividends.
- (8) No society shall issue any share with a right to a cumulative dividend except where such right is limited to the seven years immediately succeeding the first registration of the society and any claim to such accumulated dividends is limited to the available profits of the seven years.
- (9) No society shall issue any paid-up share at a price other than its nominal or face value nor shall it redeem any such share at an amount which exceeds the nominal or face value of such share.
- (10) No society shall issue any share conferring a preferent claim to the assets of the society in the case of the winding-up of the society.
- (11)
- (12) No society shall issue any share which confers upon the holder thereof any voting rights more favourable than those conferred by any of the other shares issued by it.
- (13) No society shall grant a loan against the security of any share issued by it at a rate of interest which is not at least one per cent on the amount of such loan higher than the rate of dividend payable on such share.

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(14) The provisions of this section shall not apply to any terminating society."

17. Substitution of section 29 of Act 24 of 1965. — The following section is hereby substituted for section 29 of the principal Act:

"29. Investment of funds. — Such portion of the funds of a society as is not held in the form of assets ranking as liquid assets or used for any purpose mentioned in paragraph (k) or (l) of subsection (1) of section 22 shall, subject to the provisions of this Act, be invested in one or more of the following forms of security and in no other manner, that is to say -

- (a) subject to the provisions of sections 49B to 49K, inclusive, in advances or re-advances to members and other persons;
- (b)
- (c) in deposits, loans, bills, bonds and other securities which immediately prior to the commencement of section 37 of the Financial Institutions Amendment Act, 1985, constituted 'prescribed investments';
- (d) in shares of any registered insurer in accordance with section 22(1)(m);
- (e) in the case of a terminating society, in deposits with permanent societies or with deposit-taking institutions finally registered as such;
- (eA) in shares of and loans to any company referred to in section 22(1)(a)(iii), (mB) or (mF), or established under section 22(1)(mB) or (mF);
- (eB) in shares of a company referred to in section 22(1)(mE);
- (eC) in shares of, or stock or debentures issued by, a permanent society or any other institution which in terms of section 55A takes transfer of a portion of the assets and liabilities of the society making the investment;
- (f) in any other security approved by the registrar by notice in the *Gazette*."

18. Substitution of section 30 of Act 24 of 1965. — The following section is hereby substituted for section 30 of the principal Act:

"30. Minimum unimpaired reserves. — (1) A permanent society shall manage its affairs in such a way that the sum of its unimpaired reserves and the outstanding amount in respect of debentures issued by it in terms of subsection (4) do not at any time during any quarter amount to less than the greater of -

- (a) R1 000 000; or
 - (b) 4 per cent of its liabilities as at the last business day of the preceding quarter or, if the returns in terms of section 34A(1)(b) and (c) have not yet at that particular time been certified as required by section 71A in respect of the said preceding quarter, as at the last business day of the penultimate quarter.
- (2) (a) A society's unimpaired reserves shall for the purposes of subsection (1) be calculated by deducting from the amount thereof -
- (i) depreciation of assets and bad or doubtful debts;
 - (ii) operating and accumulated losses, including accumulated depreciation and bad debts not yet written off;
 - (iii) establishment costs, costs in respect of organization and extension of business and the purchase of a business and goodwill and underwriting commission; and
 - (iv) the value of 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 any such lodging or pledging has the effect that those assets are not available for the purpose of meeting the liabilities of the society in terms of this Act.
- (b) A society shall to the satisfaction of its auditor and the registrar make provision in its records referred to in section 23 for the items mentioned

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in subparagraphs (i) to (iv) of paragraph (a) of this subsection and shall determine the respective amounts thereof quarterly, except the item mentioned in subparagraph (i), the amount of which shall be determined annually.

(3) The liability of a society shall for the purposes of paragraph (b) of subsection (1) be calculated by deducting from the amount thereof -

- (a) the amount by which its liquid assets exceed on the relevant last business day the amount required in the terms of section 31;
- (b) the amount owing to it on the relevant last business day in respect of general advances granted by it against security of fixed deposits invested with it or shares issued by it; and
- (c) the amount which its paid-up share capital shall at least amount to on the relevant last business day in terms of section 30B.

(4) A permanent society may, with the prior approval in writing of the registrar, by means of the issue of debentures obtain loan capital to supplement its unimpaired reserves for purposes of subsection (1) to the extent determined in subsection (5), provided the debentures are issued subject to -

- (i) the condition that the debentures are issued for a minimum period of seven years;
- (ii) the condition that the debentures may be repaid before maturity only at the option of the society and with the prior approval in writing of the registrar;
- (iii) the condition that, notwithstanding the provisions of any other Act, in the event of the winding-up of the society the capital amount of the debentures shall not be repaid until the claims of other creditors have been fully satisfied; and
- (iv) such further conditions, if any, as the Minister may determine by regulation.

(5) The total amount of debentures issued under subsection (4) and not yet repaid shall not at any time exceed an amount equal to twenty per cent of the amount which the society is required to maintain by way of unimpaired reserves in terms of subsection (1)."

19. Insertion of sections 30A and 30B in Act 24 of 1965. — The following sections are hereby inserted in the principal Act after section 30:

"30A. Suspension of section 30. — (1) A permanent society shall not be bound to comply with the requirements of section 30 -

- (a) for the period terminating on the last business day of the second full quarter after the commencement of this section or after its registration, as the case may be;
- (b) for such further period after the expiry of the period referred to in paragraph (a) as may be specified in a scheme approved by the registrar under subsection (2) in respect of that society.

(2) If a permanent society is upon the expiry of the period referred to in paragraph (a) of subsection (1) unable to comply with the requirements of the said section 30, it shall submit a scheme to the registrar in which it sets out the steps which it proposes to take within a fixed period, but not exceeding 10 years calculated, in the case of a society existing at the commencement of the section from the date of that commencement, or, in the case of a society provisionally registered after that commencement, from the date of its provisional registration, to comply with the said requirements.

(3) The registrar may at his discretion approve or reject a scheme submitted to him in terms of subsection (2) or refer it back to the society with proposals for the amendment thereof before he approves it.

30B. Minimum paid-up share capital. — (1) Subject to the provisions of subsection (2), a permanent society shall manage its affairs in such a way that its

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paid-up share capital does not at any time during any quarter amount to less than five per cent of its liabilities as at the last business day of the preceding quarter or, if the return in terms of section 34A(1)(b) or (c) has not yet at that particular time been certified as required by section 71A in respect of the said preceding quarter, as at the last business day of the penultimate quarter.

(2) For the purposes of subsection (1) -

- (a) the liabilities of a society shall be calculated by deducting from the amount thereof -
 - (i) the amount by which its liquid assets exceed on the relevant last business day the amount required in terms of section 31; and
 - (ii) the amount owing to it on the relevant last business day in respect of general advances granted by it against security of fixed deposits invested with it or shares issued by it; and
- (b) a society shall, in calculating its paid-up share capital, leave out of account the value of shares in the society to the aggregate amount owing to the society on the relevant last business day in respect of loans granted by it against the security of such shares."

20. Substitution of section 31 of Act 24 of 1965. — The following section is hereby substituted for section 31 of the principal Act:

"31. Minimum liquid assets. — (1) A permanent society shall hold in the Republic liquid assets to a value which does not amount to less than the sum of amounts calculated as percentages, prescribed by regulation but which in no instance may exceed 20 per cent of such different categories of its liabilities as may be specified by regulation with reference to the time when such liabilities fall due or with reference to any other feature pertaining to such liabilities.

(2) The amounts of the liquid assets and of the liabilities referred to in subsection (1) shall be calculated in such manner and shall be determined at such times as may be prescribed by regulation.

(3) A society shall not pledge or otherwise encumber any portion of the liquid assets held by it in compliance with the provisions of subsection (1): Provided that the registrar may, if he deems it necessary on account of any special circumstances in which a society may find itself, exempt such society from the prohibition contained in this subsection on such conditions and to such an extent and for such a period as he may determine.

(4) For the purposes of this section, securities shall be valued at their market value."

21. Substitution of section 32 of Act 24 of 1965. — The following section is hereby substituted for section 32 of the principal Act:

"32. Minimum reserve balance. — (1) A permanent society shall maintain an account with the Reserve Bank into which it shall from time to time deposit at least such amounts as may be necessary to comply with the requirements of subsection (2) and from which it may, subject to that subsection, from time to time withdraw amounts.

(2) The credit balance in an account maintained in terms of subsection (1) by a society, together with the average daily amount of that society's Reserve Bank notes and subsidiary coin calculated according to the total amounts of those assets held by the society on all the days of the latest month in respect of which it has furnished a return to the registrar in terms of section 34, may at no time during any month amount to less than an amount equal to the sum of amounts representing the percentage, determined in accordance with the provisions of subsection (3) by the Reserve Bank, of the amounts of such different categories of the society's liabilities as may be specified by regulation with reference to the time when such liabilities fall due or with reference to any other aspect pertaining to such liabilities.

(3) (a) The percentages determined by the Reserve Bank in terms of subsection (2) shall be such percentages as the said Bank may, having regard to the national economic interest and with the concurrence of the Minister, deem desirable to determine from time to time.

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- (b) Whenever the Reserve Bank has made a determination under paragraph (a), it shall inform the registrar thereof in writing and the registrar shall as soon as is practicable give written notice of the determination to every society and cause the determination to be published by notice in the *Gazette*.
- (c) Any such determination shall take effect on a date mentioned in the notice whereby the determination is promulgated in the *Gazette* in terms of paragraph (b).

(4) A society's liabilities referred to in subsection (2) shall be calculated in such manner and determined at such times as may be prescribed by regulation."

22. Insertion of sections 32A, 32B, 32C and 32D in Act 24 of 1965. — The following sections are hereby inserted in the principal Act after section 32:

"32A. Maintenance of covered position. — A permanent society shall manage its affairs in such a way -

- (a) that the amount of its unsecured liabilities, together with the amount which its unimpaired reserves shall at least amount to in terms of section 30(1), does not at any time exceed the value of its unencumbered assets;
- (b) that the amount of its unsecured liabilities payable in the currency of the Republic, together with the amount which its unimpaired reserves shall at least amount to in terms of section 30(1), does not at any time exceed the value of its unencumbered assets situated in the Republic or, in the case of such assets consisting of claims, payable in the currency of the Republic.

32B. Failure or inability to comply with certain provisions. — (1) If a permanent society fails to comply with a provision of section 30, 30B, 31, 32 or 32A or of a scheme referred to in section 30A approved by the registrar, or is unable to comply with any such provision, it shall forthwith report its failure or inability in writing to the registrar, stating the reasons for such failure or inability.

(2) The registrar may summarily take action under this Act against a society referred to in subsection (1) or, if he deems it fit under the circumstances, condone the failure or inability and afford the society an opportunity, subject to such conditions as the registrar may determine, to comply with the relevant provision within a specified period.

(3) Irrespective of whether criminal proceedings in terms of this Act have been or may be instituted against a society in respect of any failure or inability referred to in subsection (1), the registrar may, subject to any condonation granted under subsection (2), by way of a notice in writing impose upon that society, in respect of such failure or inability, a penalty -

- (a) in the case of any failure or inability to comply with the requirements of section 30, 30B or of a scheme referred to in section 30A, not exceeding one-tenth of one per cent of the amount of the shortfall for each day on which such failure or inability continues;
- (b) in the case of any failure or inability to comply with the requirements of section 32A, not exceeding one-tenth of one per cent of the amount of the excess for each day on which such failure or inability continues.

(4) A penalty imposed under subsection (3) shall be paid to the registrar within such period as may be specified in the notice and if the society concerned omits to pay the penalty within the specified period the Registrar may by way of civil action in a competent court recover from such society the amount of the penalty or any portion thereof which he may in the circumstances consider justified.

32C. Restriction on investments in immovable property and shares and on loans and advances to certain companies. — (1) A permanent society investing money in fixed property or shares or lending or advancing money to a company referred to in section 22(1)(a)(iii) or (mB), shall manage its transactions in such investments, loans or advances in such a way that the sum of the amounts -

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- (a) invested by it in immovable property, taken at the book value thereof,
- (b) invested by it in shares (excluding preference shares which are not convertible into ordinary shares), taken at the price at which they were acquired, and
- (c) owing to it by any such company in respect of a loan or advance granted by it,

does not at any time exceed the amount of its unimpaired reserves.

(2) Urban immovable property or any right to urban immovable property which was mortgaged to a society and which was acquired by the society owing to the mortgagor's failure to comply with a condition under the mortgage shall for the purposes of subsection (1)(a) be disregarded for a period of five years from such acquisition.

(3) The registrar may exempt a society from the provisions of subsection (1) on such conditions and to such extent and for such period as he may determine.

32D. Restriction on investments in and loans and advances to certain associates. — (1) A permanent society investing money in debentures or preference shares of any of its associates, excluding any associate which is a company referred to in section 22(1)(a)(iii) or (mB) or lending or advancing money to any such associate, shall manage its transactions in such investments, loans or advances in such a way that the sum of the amounts -

- (a) invested by it in debentures or preference shares of any such associate (excluding debentures or preference shares which are convertible into ordinary shares), taken at the price at which they were acquired, and

- (b) owing to it by any such associate in respect of a loan or advance granted by it,

does not at any time during any quarter exceed five per cent of its liabilities as at the last business day of the preceding quarter or, if the return in terms of section 34A(1)(c) has not yet at that particular time been certified as required by section 71A in respect of the said preceding quarter, as at the last business day of the penultimate quarter.

(2) The sum of the amounts referred to in paragraphs (a) and (b) of subsection (1) shall be calculated for the purposes of the said subsection by deducting therefrom the amount by which the sum of the unimpaired reserves of the society exceeds the sum of the amounts referred to in paragraphs (a), (b) and (c) of subsection (1) of section 32C as at the relevant last business day."

23. Repeal of section 33 of Act 24 of 1965. — Section 33 of the principal Act is hereby repealed.

24. Substitution of section 34 of Act 24 of 1965. — The following section is hereby substituted for section 34 of the principal Act:

"34. Monthly returns. — A permanent society shall within 21 days after the last business day of each month furnish the registrar with a return in the prescribed form in respect of that month in order to enable him to determine whether the society is complying with the provisions of sections 31 and 32."

25. Insertion of section 34A in Act 24 of 1965. — The following section is hereby inserted in the principal Act after section 34:

"34A. Quarterly returns. — (1) A permanent society shall within 40 days after the last business day of each quarter furnish the registrar with a return in the prescribed form specifying -

- (a) in respect of the current quarter -

- (i) the minimum amount which such society is required in terms of section 49D(1) to apply or hold available for housing advances, and
- (ii) the maximum amounts which such society is permitted under sections 49E and 49F to apply for business and general advances, respectively to persons other than its associates,

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and such further particulars as may be necessary to indicate whether the society is complying with the said sections;

(b) the amount of such society's unimpaired reserves of its indefinite share capital as at the last business day of that quarter and such further particulars as may be necessary to indicate whether the society is complying with sections 30 and 30B or, if applicable, a scheme under section 30A; and

(c) the assets and liabilities of such society as at the said last business day of the said quarter.

(2) A society shall have a return referred to in subsection (1)(c) which is to be furnished to the registrar in respect of any of the quarters during a financial year certified as true and correct by its auditor and the registrar may, if he deems it necessary, require that one of the other returns to be furnished in respect of any of the other three quarters also be so certified."

26. Substitution of section 35 of Act 24 of 1965. — The following section is hereby substituted for section 35 of the principal Act:

"35. Annual accounts. — (1) The financial year of a society shall end on the last day of March.

(2) The board of a society shall after the end of each financial year prepare in respect of that financial year the prescribed annual accounts in the prescribed form.

(3) Each account prepared in terms of subsection (2) shall be certified as true and correct by two directors and the chief accountant of the society.

(4) The auditor of a society shall make a report to the members of the society on the annual accounts referred to in subsection (2) or on any particular account as may be prescribed.

(5) A copy of each annual account referred to in subsection (2) and a copy of the auditor's report referred to in subsection (4) shall be sent by the society to the registrar within 14 days after the annual general meeting at which they are presented or within four months after the expiration of the financial year to which they relate, whichever period expires first."

27. Repeal of section 36 of Act 24 of 1965. — Section 36 of the principal Act is hereby repealed.

28. Substitution of Chapter V of Act 24 of 1965. — The following Chapter is hereby substituted for Chapter V of the principal Act:

"CHAPTER V

DEPOSITS AND ADVANCES

38. Permanent societies empowered to accept deposits and to grant advances. — A permanent society may, subject to the provisions of this Act and such directives as may from time to time be issued by the registrar -

(a) accept deposits and grant advances in the Republic; and

(b) with the prior approval in writing of the registrar -

(i) accept deposits and grant advances in the Republic of South Africa and in any state or territory which formerly formed part of that Republic;

(ii) accept deposits in any other state which is a party to an agreement regulating matters in connection with a common monetary area of which the Republic is part and apply such deposits for the granting of advances in such state.

39. Kinds of deposits. — (1) A deposit which a society may accept under section 38 shall be -

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(a) a deposit in a savings account;

(b) a deposit in a transmission account; or

(c) a fixed deposit.

(2) Subsection (1) shall not affect the raising of funds by a society by way of loans or overdrafts referred to in section 27 or the issue of shares referred to in section 28 or the issue of debentures referred to in section 22.

40. Opening of cheque accounts prohibited. — (1) No society shall open any account in the name of a depositor from which the depositor may withdraw or pay money by cheque or bill.

(2) Subsection (1) shall not affect a payment by cheque from a savings or transmission account in accordance with the instructions of the depositor.

41. Opening of savings accounts on behalf of depositors. — (1) A society may open a savings account on behalf of a depositor into which the depositor may deposit money and from which he may withdraw money or transfer money to any other account which he, his spouse or a dependant of his maintains with the society, subject to the conditions applicable to such savings account.

(2) The conditions on which a savings account is kept shall, subject to the provisions of this Act, be determined by the society and such conditions may include conditions -

(a) imposing, subject to the provisions of section 44, a limit on the maximum credit balance permitted in the account;

(b) prohibiting the withdrawal or transfer from the account of any amount or of an amount exceeding a fixed limit otherwise than, except with the society's consent, upon the expiry of a fixed period of notice to the society; and

(c) determining the rate at which interest on the credit balance in the account shall be calculated, the basis of such calculation and whether any such rate of interest or basis of calculating interest may from time to time be altered by the society without the consent of the depositor.

(3) Different conditions may be determined in respect of different kinds of savings accounts.

42. Disclosure of conditions applicable to savings accounts. — A society -

(a) shall in writing and in a summarized form as approved by the registrar inform a depositor, when opening a savings account in his name, of the conditions applicable to such savings account;

(b) shall not give out to any such depositor or to the public in general that it will at all times consent to the withdrawal or transfer of amounts from a savings account upon a shorter period of notice than any period which may be specified in the conditions applicable to the savings account.

43. Opening of savings accounts on behalf of companies. — No society shall open a savings account on behalf of a company which is not a company referred to in section 21 of the Companies Act 1973 except -

(a) on condition that not more than one withdrawal shall be made per month and that each deposit or withdrawal shall amount to at least the prescribed amount; or

(b) where permitted or required by any other law.

44. Maximum credit balance on savings account. — (1) A society shall not allow any person to have with it a credit balance on savings account in excess of a prescribed amount.

(2) The provisions of subsection (1) shall not -

(a) prevent a society from crediting to a savings account interest earned on the amount in that savings account; and

(b) apply to a savings account in terms of the State-aided homeownership savings scheme.

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- (3) A depositor who has a credit balance on savings account with a society which -
- (a) immediately before the commencement of this section lawfully exceeded the said prescribed amount, or
 - (b) immediately after and, as a result of action under section 55 or 55A in which two or more societies were involved, exceeded the said prescribed amount,

shall not after such commencement of action, as the case may be, be bound to reduce such credit balance to the permitted limit contemplated in subsection (1) but the savings account shall not be credited with any further amount, other than interest referred to in subsection (2)(a), as long as it shows a credit balance exceeding that limit and, if such credit balance is at any time reduced to below that limit, that limit shall then become applicable to such savings account.

- (4) If a trustee opens savings accounts for different trusts, each trust shall individually be subject to the limit contemplated in subsection (1).

45. Opening of transmission accounts on behalf of depositor. — (1) A society may open a transmission account on behalf of a depositor into which the depositor may deposit money and from which the society may in accordance with the instructions of the depositor make a payment on demand to the depositor or any other person or transfer an amount to any other account, subject to the conditions applicable to transmission accounts.

(2) The conditions on which transmission accounts are kept shall, subject to the provisions of this Act, be determined by the society and such conditions may include conditions determining whether interest shall be payable on a credit balance in the account, the rate at which any such interest shall be calculated, the basis of such calculation and whether any such rate of interest or basis of calculating interest may from time to time be altered by the society without the consent of the depositor.

(3) No society shall require a fixed minimum amount to be deposited into a transmission account when opening such account or to be maintained in the account while being operated on: Provided that this subsection shall not prevent a society from closing a transmission account when there are no funds in the account.

46. Disclosure of conditions applicable to transmission accounts. — A society shall in writing and in a summarized form as approved by the registrar inform a depositor, when opening a transmission account in his name, of the conditions applicable to transmission accounts kept by that society.

47. Acceptance of fixed deposits. — (1) Fixed deposits which a society may accept from depositors shall be -

- (a) deposits of which the term is previously fixed by the society and which mature upon expiry of such fixed term; or
- (b) deposits (with or without a previously fixed term) which mature upon expiry of such period of notice to the society as is previously fixed by the society.

(2) The conditions on which a society may accept fixed deposits shall, subject to the provisions of this Act, be determined by the society and such conditions may include conditions determining -

- (a) the rate at which interest on the fixed deposit up to the date of maturity thereof shall be calculated and the basis of such calculation; and
- (b) whether or not the fixed deposit shall be a negotiable fixed deposit.

(3) Different terms or periods of notice referred to in subsection (1) and different conditions may be fixed or determined in respect of different kinds of fixed deposits.

48. Disclosure of conditions applicable to fixed deposits. — Whenever any depositor invests an amount as a fixed deposit with a society, the society shall in writing and in a summarized form as approved by the registrar inform him of the term, rate of interest and other conditions applicable to such fixed deposit.

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49. Acceptance of fixed deposits for periods shorter than 12 months. — A society accepting fixed deposits for periods shorter than 12 months shall manage its transactions in accepting such deposits in such a way that the total amount invested with it in the form of such deposits does not at any time during any quarter exceed an amount equal to a percentage prescribed by regulation of its liabilities as at the last business day of the preceding quarter or, if the return in terms of section 34A(1)(c) has not yet at that particular time been certified as required by section 71A in respect of the said preceding quarter, as at the last business day of the penultimate quarter.

49A. Repayment of fixed deposits. — (1) A society shall repay a fixed deposit on the date of maturity thereof and not earlier.

(2) A fixed deposit or any portion thereof shall not be repayable in accordance with subsection (1) on the maturity date where the depositor has instructed the society in writing before the date to reinvest the amount of the fixed deposit or any portion thereof, as the case may be, with the society.

(3) Notwithstanding subsection (1) a society may at its discretion repay a fixed deposit before the maturity date if -

- (a) the fixed deposit forms part of the assets in an insolvent or a deceased estate;
- (b) the depositor is placed under curatorship;
- (c) the depositor is placed under judicial management or is wound up;
- (d) the fixed deposit is required to effect deferred pension payments;
- (e) in the case of such a deposit which has been ceded to it or to another society or deposit-taking institution as collateral security for a mortgage loan, the cessionary requires the repayment of that deposit;
- (f) the fixed deposit was invested for a period of more than 12 months, at least 12 months of that period have expired and the depositor has given the society at least 30 days' notice of withdrawal; or
- (g) the registrar has authorized the society, either in general or in any particular case, to repay such fixed deposit.

ADVANCES

49B. Kinds of advances. — An advance which a society may grant under section 38 shall be -

- (a) a housing advance;
- (b) a business advance; or
- (c) a general advance.

49C. Certain advances and consents prohibited. — (1) A society shall not advance money by way of housing advance or a business advance to any person against security of -

- (a) a mortgage on immovable property or on any right to immovable property which is not urban immovable property or a right to urban immovable property,
- (b) a second or subsequent mortgage on urban immovable property or on a right to urban immovable property unless the first mortgage or all mortgages, as the case may be, on such property or right ranking prior to that mortgage, is or are in favour of the society.
- (c) a mortgage on urban immovable property or on any right to urban immovable property ranking *pari passu* with a mortgage in favour of another person on the same property or right,
- (d)
- (e) a mortgage on a right to urban immovable property if that right is a lease of, or other right to occupy or use, the property -

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- (i) having a remaining term of less than 20 years, or
- (ii) which is not at the discretion of the lessee, occupier or user renewable for a period of, or for continuous periods totalling, at least 20 years,

and a society shall not advance money to any person against security of a fixed deposit which that person has invested with it or a share issued by it under section 28 to that person, unless the rate of interest payable on the advance is at least one per cent higher than the rate of interest payable on the fixed deposit or the rate of dividend payable on the share, as the case may be.

(2) A society shall not consent to the registration in favour of any other person of a mortgage on any property or on a right to property which will rank *pari passu* with a mortgage held by it on that property or right.

49D. Minimum extent of transactions in housing advances. — (1)(a) A society shall in respect of each quarter determine an amount in accordance with subsection (2) and shall during that quarter apply or hold available that amount for housing advances to members of the public.

(b) Paragraph (a) shall not be so construed as to bind a society to apply during any particular quarter for housing advances the whole or any portion of the amount determined in terms of the said paragraph in respect of that quarter and any such amount or any portion thereof may be invested by the society in any way which does not render the availability thereof for housing advances impossible.

(2) The amount determined by a society in terms of subsection (1) in respect of any particular quarter shall not be less than an amount which, together with the total sum owing to it in respect of housing advances as at the last business day of the preceding quarter, equals a percentage prescribed by regulation of its operating capital as at the said last business day of the said quarter.

(3) For the purposes of this section 'housing advance' shall be deemed to include any advance or loan granted by a society against the cession to it, as security for that advance or loan, of a share in a share block company as defined in section 1 of the Share Blocks Control Act, 1980 (Act No. 59 of 1980) and of any right or interest conferred by a use agreement as defined in that Act.

(4) If the Minister is of the opinion that a fair proportion of the amount, which a society is required in terms of subsection (1) to apply or hold available for housing advances to members of the public, is not being applied for housing advances to members of the public falling under an income group prescribed by regulation, he may by regulation require societies to apply or hold available such proportion as may be prescribed by regulation of the amount referred to in the said subsection (1) exclusively for housing advances to members of the public falling under the said income group.

49E. Maximum extent of transactions in business advances and general advances. — The amount which a society applies during any particular quarter for business advances and general advances to persons other than its associates shall, subject to compliance with the requirements of section 49D(1), not exceed an amount which, together with the total sum owing to it by persons other than its associates in respect of business advances and general advances as at the last business day of the preceding quarter, equals a percentage prescribed by regulation of its operating capital as at the said last day of the said preceding quarter.

49F. Maximum extent of transactions in general advances. — The amount which a society applies during any particular quarter for general advances to persons other than its associates shall, subject to compliance with the requirements of section 49D(1), not exceed an amount which, together with the total sum owing to it by persons other than its associates in respect of general advances as at the last business day of the preceding quarter, equals a percentage prescribed by regulation of its operating capital as at the said last day of the said preceding quarter.

49G. Advances in respect of properties sold by associates. — The amount, which a society applies during any financial year for the granting of housing and business advances to members of the public in respect of urban immovable property or rights to such property sold to them by an associate of the society,

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shall not exceed five per cent of the total amount which such society applies during that financial year for the granting of housing and business advances.

49H. Maximum amount of housing or business advances. — (1) Unless collateral security is furnished in favour of the society, a society shall not grant -

- (a) a housing advance in excess of 90 per cent in the case of a mortgage which provides for the redemption of the capital amount advanced by regular instalments which include interest on the outstanding amount or in excess of 80 per cent in the case of any other mortgage; or
- (b) a business advance in excess of 80 per cent,

of the reasonably established value of the property or right which is mortgaged to the society: Provided that a society may in the case of an advance referred to in paragraph (a), in addition to the amount determined by the application of the applicable percentage referred to in that paragraph, also advance the full cost in respect of the registration of the property or right in the name of the borrower.

(2) If urban immovable property or a right to urban immovable property -

- (a) which was previously mortgaged to a society and which was acquired by the society owing to the mortgagor's failure to comply with a condition of the mortgage, is sold by the society; or
- (b) which is mortgaged to a society, is sold in execution or upon the insolvency of the mortgagor or under any authorization by the mortgagor after he has failed to comply with a condition of the mortgage,

the society may, notwithstanding subsection (1), grant the buyer of the property or right a housing or business advance, depending on the use or intended use of the property concerned, exceeding the limit referred to in that subsection but not exceeding the sum of -

- (i) the amount owing by the mortgagor to the society at the time, in a case where paragraph (a) is applicable, of the acquisition of the property or right by the society, or, in a case where paragraph (b) is applicable, of the sale of the property or right; and
- (ii) the amount expended by the society in respect of -
 - (aa) legal costs for the recovery of any money owed or owing to it by the said mortgagor;
 - (bb) costs in respect of the registration of the property or right in its name; and
 - (cc) essential repairs to the property concerned and the installation of sewerage, electricity, water or any other service which he was legally required to provide at the instance of a local authority.

(3) If collateral security is furnished a society shall not grant a housing or business advance which is greater than the lesser of -

- (a) the reasonably established value of the property or right in question; or
- (b) the sum of -
 - (i) the advance which may be granted on the property or right in terms of paragraph (a) or (b) of subsection (1), as the case may be, without collateral security; and
 - (ii) the value of the collateral security furnished.

(4) For the purposes of subsection (3) the value of any collateral security furnished shall be taken, if the collateral security consists of -

- (a) cash which is deposited with the society concerned, at the full amount so deposited;
- (b) a deposit with any deposit-taking institution or a deposit with or shares in a permanent society, at the full amount of the deposit or shares;

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- (c) a bank guarantee, a guarantee policy as defined in the Insurance Act, 1943, a guarantee referred to in section 25 of the Finance and Financial Adjustments Acts Consolidation Act, 1977 (Act No. 11 of 1977) or any other guarantee or suretyship acceptable to the society concerned, at the full amount guaranteed;
 - (d) a life insurance policy, as defined in the Insurance Act, 1943, at the surrender value of the policy;
 - (e) securities -
 - (i) listed on the Johannesburg Stock Exchange and issued by -
 - (aa) the Government of the Republic of South Africa, including any securities so listed which are guaranteed by such Government;
 - (bb) any institution, council or body contemplated in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961);
 - (cc)
 - (dd)
 - (ee) any regional service council;
 - (ff) the Rand Water Board mentioned in section 4 of the Rand Water Board Statutes (Private) Act, 1950 (Act No. 17 of 1950);
 - (gg) Eskom;
 - (hh) the Land and Agricultural Bank of South Africa mentioned in section 3 of the Land Bank Act, 1944 (Act No. 13 of 1944); or
 - (ii) the Industrial Development Corporation of South Africa Limited established by section 2 of the Industrial Development Act, 1940 (Act No. 22 of 1940),
at 90 per cent of the last price at which the securities were traded on that Stock Exchange; or
 - (ii) so listed and not so issued or guaranteed, at 75 per cent of the last price at which the securities were traded on the said Stock Exchange; or
 - (f) any other asset acceptable to the society concerned, at 75 per cent of the reasonably established value of the asset.
- (5) Whether or not a society pays interest on any cash deposit with it as collateral security, such cash deposit shall for the purposes of this Act be deemed to be a fixed deposit.
- (6) For the purposes of subsections (1) and (3) any amounts disbursed by a society in respect of -
- (a) premiums on insurance policies designed to provide further security for the repayment of an advance secured by the mortgage of the property or right concerned,
 - (b) rates, taxes and licence fees in respect of the property or right,
 - (c) the maintenance and repair of the property or the property to which the right is attached,
 - (d) the installation of sewerage on the property or the property to which the right is attached,
 - (e) the provision of electricity or water on the property or the property to which the right is attached,
 - (f) the cost incurred in converting the property from leasehold to freehold, or
 - (g) legal costs incurred by the society in respect of legal proceedings instituted by it against the borrower and also against the mortgagor if the borrower is not the mortgagor, for the recovery of any monies due under the mortgage bond or any subsequent written agreement under the mortgage bond resulting from default on the part of such borrower,

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shall not be reckoned as part of the amount advanced, irrespective of whether the amounts referred to in paragraphs (a) to (f) were disbursed on behalf of the present borrower or any previous borrower.

49I. Valuation of urban immovable property. — (1) No housing or business advance shall be granted by a society unless a valuation of the urban immovable property or of the right to such property in respect of which the advance is granted was performed by a person designated by the society for that particular valuation or for valuations in general.

(2) Every valuation shall be -

(a) based upon a personal inspection, unless the valuation relates to unimproved land with which the valuer is personally acquainted; and

(b) recorded in the prescribed form, which form shall be signed by the valuer.

(3) No person shall effect a valuation in terms of subsection (1) if he -

(a) has any direct or indirect pecuniary interest, other than the payment of fees for professional legal services rendered by him, in the granting of the advance; or

(b) is related within the third degree of consanguinity or affinity to any person having any such interest.

49J.

49K. Effect of certain irregular advances. — An advance granted by a society to any person contrary to a provision of this Act shall not affect the validity of the rights and obligations arising between the society and any such person."

29. Insertion of section 50A in Act 24 of 1965. — The following section is inserted in the principal Act after section 50:

"50A. Penalty for failure to submit or furnish documents or information. —

(1) If any society omits to submit or to furnish to the registrar any return, statement, report or other document or information in accordance with a requirement of this Act within the period or further period determined by or under this Act, the registrar may impose upon it by way of a notice in writing a penalty not exceeding R100 for every day during which the omission continues.

(2) A penalty imposed under subsection (1) shall be paid to the registrar within such period as may be specified in the notice and, if the society omits to pay the penalty within the specified period, the registrar may by way of civil action in a competent court recover from such society the amount of the penalty or any portion thereof which he may in the circumstances consider justified."

30. Amendment of section 51 of Act 24 of 1965. — Section 51 of the principal Act is hereby amended by the addition of the following subsections:

"(3) Neither the provisions of this section nor any other provision of this Act shall be construed as prohibiting the registrar from holding discussions from time to time with the executive officer of any society, or with any employee of that society designated by such executive officer, with a view of achieving effective supervision of such society by the registrar.

(4) The registrar may from time to time by means of a circular furnish societies with guide-lines regarding the application and interpretation of any provision of this Act."

31. Substitution of section 55 of Act 24 of 1965. — The following section is hereby substituted for section 55 of the principal Act:

"55. Amalgamation and transfer of assets and liabilities. — (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 or part of its assets and liabilities to another society or to a deposit-taking institution finally registered as such in accordance with law.

(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.

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- (3) No transaction involving the amalgamation of societies or the transfer of assets and liabilities from one society to another society or to a deposit-taking institution shall be of any force or effect unless -
- (a) the registrar is satisfied that such transaction will not be detrimental to the public interest or cause undue hardship to the members of any of the societies concerned or of the society or deposit-taking institution concerned, as the case may be;
 - (b) in the case of an amalgamation of two or more societies or the transfer of assets and liabilities from one society to another society, 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, 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 or by the society concerned and the deposit-taking institution concerned, as the case may be.
- (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 two directors and the secretary of each of the parties concerned, shall be sent by each of the affected parties to the registrar and shall be registered by him.
- (6) The amalgamation or transfer shall take place upon the terms and conditions set forth in such resolution.
- (7) Upon registration by the registrar -
- (a) of the appropriate notice 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 notice of any such transfer of all the assets and liabilities of a society, 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 or a deposit-taking institution: 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 registration 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 or a deposit-taking institution, all the assets and liabilities of the societies so amalgamated shall become assets and liabilities of the society registered in their stead or, as the case may be, all or, in the case of the transfer of only part of the assets and liabilities of a society, that part of, the assets and liabilities of the society transferring assets and liabilities shall become assets and liabilities of the society or the deposit-taking institution to which they are transferred.
- (10) The officer in charge of a deeds registry or other office in which is registered any mortgage bond or any immovable property which is transferred in accordance with the provisions of subsection (9) shall, upon production to him by the society or deposit-taking institution concerned of such bond or of the title deeds of such immovable property and a certificate by the registrar of the registration by him of the notice of amalgamation or transfer, as the case may be, make such endorsements upon such bond or title deeds and such entries in his registers as are necessary by reason of such amalgamation or transfer.

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(11) The amalgamation of societies or transfer of assets and liabilities of a society under the provisions of this section shall not affect the rights of any creditor of any of the societies concerned or of the society or deposit-taking institution concerned.

(12) In the case of a transfer of assets and liabilities of a society to a deposit-taking institution, provision may, subject to the provisions of subsection (14), be made in the relevant agreement for the transfer for compensation to members of the society, taking into account the unimpaired reserves of the society, by way of either a cash payment or a right to take up shares in the transferee institution or its controlling company and provision may be so made for compensation to officers of the society *mutatis mutandis* in accordance with the provisions of subsection (3)(b).

(13) The basis on which and conditions subject to which compensation contemplated in subsection (12) to members shall take place and also the unimpaired reserves of the society on the date of the latest quarterly return submitted to the registrar in terms of section 34A and, in the case of cash payments, also the estimated total amount of such payments shall be furnished in the relevant agreement for the transfer.

(14) A resolution, to offer compensation referred to in subsection (12) to members, must be approved by both parties to the agreement for the transfer of assets and liabilities by separate special resolution and shall provide that -

- (a) only a member who on the day immediately prior to the date determined for the transfer of assets and liabilities held shares in the transferor society and which shares had been issued to such a member at least 12 months prior to that date, or which had been paid for out of the proceeds of shares redeemed by that society during the said 12 months, shall qualify for such compensation;
- (b) such a member shall nevertheless not be entitled to the compensation if -
 - (i) he is not resident in the Republic; or
 - (ii) he is a body corporate which is not incorporated in the Republic; and
- (c) such a member who is the holder of subscription shares in the transferor society shall qualify for such compensation only to the extent to which such shares are paid up on the day referred to in paragraph (a).

(15) Upon the transfer of assets and liabilities from a society to a deposit-taking institution all investments in the form of shares issued by the society and which, prior to the date of the transfer of its assets and liabilities, have not yet been redeemed shall be deemed to be fixed deposits with the transferee deposit-taking institution.

(16) The conditions and any tax benefit which immediately prior to the date of transfer of assets and liabilities were applicable in respect of an investment in the form of shares referred to in subsection (15) shall, notwithstanding the provisions of that subsection but subject to the provisions of the law relating to income tax, continue to apply to the investment for a period of 10 years or until it is redeemed, whichever period expires first.

32. Substitution of section 55A of Act 24 of 1965. — The following section is hereby substituted for section 55A of the principal Act:

"55A. Transfer of part of a society's business. — (1) A permanent society may, with the prior consent in writing of the registrar 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 Minister.

(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 particulars of all its assets and liabilities and, separately, of 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.

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(3) The provisions of subsections (2), (3), (4), (5), (6), (10) and (11) of section 55 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 and in shares of the first-mentioned society.

(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, prescribed investments, maximum investment in fixed property and minimum capital and reserves), that a reasonable and fair division of the assets, reserves and other liabilities of the society 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 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 conditions set out in the said agreement, any shares in it so transferred.

(6) Upon the registration by the registrar of the notice of the transfer 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."

33. Substitution of section 56 of Act 24 of 1965. — The following section is hereby substituted for section 56 of the principal Act:

"**56. Judicial management.** — (1) Subject to the provisions of this Act, the provisions relating to the judicial management of companies contained in the Companies Act, 1973 shall *mutatis mutandis* apply to a society.

(2) A judicial management order may be granted in respect of a society by the court on the application of the registrar or of the society."

34. Amendment of section 59 of Act 24 of 1965. — Section 59 of the principal Act is hereby amended -

(a) by the substitution for subsection (2) of the following subsection:

"(2) Subject to the provisions of this section the provisions of the Companies Act, 1973 relating to the voluntary winding-up of companies shall *mutatis mutandis* apply to any permanent society."

(b) by the substitution for subsection (3) of the following subsection:

"(3) In the application of the said provisions in terms of subsection (2), subsection (3) of section 357 of the said Act shall be construed as if at the end of the said subsection (3) there were added the words 'as well as to the Registrar of Deposit-taking Institutions'; and

(c) by the substitution for subsection (5) of the following subsection:

"(5) The liquidator of the society shall forward to the registrar a copy of every notice or account which in terms of the Companies Act, 1973, he is required to furnish to the Master of the Supreme Court."

35. Amendment of sections 60, 61 and 62 of Act 24 of 1965. — The principal Act is hereby amended in section 60(1), section 61 and section 62 by the substitution for the expression "Companies Act, 1926 (Act No. 46 of 1926)" of the expression "Companies Act, 1973".

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36. Insertion of section 64A in Act 24 of 1965. — The following section is hereby inserted in the principal Act after section 64:

"64A. Distribution of surplus in winding-up. — Any surplus remaining after all claims have been satisfied in the winding-up of the permanent society, whether voluntary or by the court, shall be distributed to the holders of shares in terms of section 28 in accordance with the provisions of the rules of the society or in the absence of such provisions on a *pro rata* basis: Provided that shares, which are not fully paid up when the winding-up proceedings commence, shall qualify in a *pro rata* distribution to the extent only to which such shares are paid up."

37. Repeal of section 65 of Act 24 of 1965. — Section 65 of the principal Act is hereby repealed.

38. Insertion of Chapter VIIA in Act 24 of 1965. — The following Chapter is hereby inserted in the principal Act after Chapter VII:

"CHAPTER VIIA

CONVERSION OF MUTUAL BUILDING SOCIETIES

65A. Definitions. — (1) In this Chapter, unless the context indicates otherwise -

'applicable date', in relation to a conversion of a society into a deposit-taking institution, means the date of such conversion or, if any other date is specified in the conversion scheme relating to such conversion as the applicable date for purposes of such conversion, that other date;

'conversion into a deposit-taking institution' means a conversion into a public company which is in terms of section 65I(1) deemed to be registered as a deposit-taking institution;

'conversion scheme' means a scheme regulating the conversion of a society into a deposit-taking institution and governing the reciprocal rights and obligations of the parties to the conversion and in particular -

- (a) specify the basis, terms and conditions on which the conversion is effected;
- (b) providing for the issue of shares or all the shares in the public company established by the conversion to a public company (if any) registered in the circumstances mentioned in section 65F(1) as a controlling company in respect of the deposit-taking institution; and
- (c) providing subject to subsections (2) and (3) for an offer, either to persons who immediately before the applicable date are holders of a qualifying interest in the society or to such persons and to members of the public, to take up shares -
 - (i) if no controlling company referred to in paragraph (b) is contemplated, in the public company established by the conversion; or
 - (ii) if such a controlling company is contemplated, in such controlling company or in both such controlling company and the company to be established by the conversion;

'qualifying interest', in relation to a society which is converted into a deposit-taking institution, means any share in such a society issued in terms of section 28 to the extent to which such share immediately before the applicable date is paid up in accordance with the conditions attaching to the paying-up of such share, but excludes any share issued by the society during the 12 months (or such shorter period as may be determined by the society with the approval of the registrar) immediately preceding the applicable date to the extent to which that share has not been paid for out of the proceeds of a share in such society which has been redeemed during the said period.

(2) Any person who immediately before the applicable date is the holder of a qualifying interest in the society which is converted into a deposit-taking institution shall, notwithstanding any provision to the contrary, not be entitled to any share contemplated in paragraph (c)(i) or (ii) of the definition of 'conversion scheme' if he -

- (a) is not resident in the Republic; or
- (b) is a juristic person which has not been incorporated in the Republic.

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(3) Shares contemplated in paragraph (c)(i) or (ii) of the definition of 'conversion scheme' may be offered to members of the public to the extent only to which they are not taken up by persons holding immediately before the applicable date a qualifying interest in the society concerned.

65B. Conversion of societies into deposit-taking institutions. — (1) A society which is finally registered as a permanent society in terms of this Act and which desires to carry on business as a deposit-taking institution may with the approval of the registrar and under the authority of a special resolution adopted at a special general meeting of members of the society be converted into such a deposit-taking institution in accordance with the provisions of this Chapter.

(2) A special resolution referred to in subsection (1) may be adopted by a society notwithstanding the provisions of its rules or the provisions of this Act.

65C. Application for registrar's approval. — (1) A society, contemplating to hold a general meeting of members for the purpose of adopting a special resolution referred to in section 65B, shall before it convenes such a meeting apply to the registrar in the prescribed form for the approval contemplated in that section.

(2) An application referred to in subsection (1) shall be accompanied by the following documents in duplicate, namely -

- (a) an exposition of the reasons for the proposed conversion and of the manner in which it is proposed to effect the conversion;
- (b) a proposed conversion scheme;
- (c) a proposed memorandum and articles of association for the public company to be established by the conversion;
- (d) the memorandum and articles of association of the public company (if any) intending to apply for registration as a controlling company in respect of the proposed deposit-taking institution in the circumstances mentioned in section 65F(1) or, if such company is yet to be formed, the proposed memorandum and articles of association;
- (e) a proposed special resolution -
 - (i) authorizing in accordance with the conversion scheme the conversion of the society into a deposit-taking institution;
 - (ii) approving the provisions of the proposed conversion scheme;
 - (iii) adopting the proposed memorandum and articles of association referred to in paragraph (c);
 - (iv) approving, if a controlling company for the deposit-taking institution is contemplated, the memorandum and articles of association or the proposed memorandum and articles of association, as the case may be, referred to in paragraph (d);
 - (v) designating persons to act as the first directors of the proposed deposit-taking institution; and
 - (vi) providing for any such other matters in connection with the conversion as may be regarded necessary.

(3) A society which applies in terms of subsection (1) for the registrar's approval shall furnish such additional particulars in connection with its application as the registrar may require.

65D. Consideration of application. — (1) The registrar shall not grant his approval for the conversion of a society into a deposit-taking institution if he is of the opinion -

- (a) that any of the documents mentioned in section 65C(2) is inconsistent with a provision of the Deposit-taking Institutions Decree, 1993 or contains a provision which is undesirable;

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(b) that the basis or conditions on which it is contemplated to offer shares in the company to be established by the conversion or in any proposed controlling company to persons referred to in paragraph (c) of the definition of 'conversion scheme' in section 65A, or to such persons and to members of the public, are not reasonable and fair or may otherwise have the effect that a person will acquire an interest in the proposed company or in any proposed controlling company which is inconsistent with a provision of the Deposit-taking Institutions Decree, 1993; or

(c) that the application does not comply with a requirement of the Deposit-taking Institutions Decree, 1993.

(2) (a) For the purposes of considering the basis and conditions on which it is contemplated to offer shares in the proposed company or in any proposed controlling company to persons referred to in paragraph (c) of the definition of 'conversion scheme' in section 65A, or to such persons and to members of the public, the registrar may after consultation with the society designate a person to investigate, and advise him (independently of the society) on the reasonableness and fairness of the proposed basis and conditions.

(b) The costs of an investigation in terms of paragraph (a) shall be paid by the society.

(3) The registrar shall not refuse any application on the ground of subsection (1)(a) or (b), without having afforded the society a reasonable opportunity of adjusting the relevant document in accordance with his requirements.

65E. Special general meeting to authorize conversion. — (1) As soon as the registrar has granted approval of the conversion of a society into a deposit-taking institution, the society may convene a special general meeting of members in accordance with this Act and its rules for the purpose of adopting the special resolution referred to in section 65B.

(2) The documents laid before any such meeting shall consist of -

(a) the documents mentioned in paragraphs (a) to (e) of section 65C(2) or, if the registrar has refused to grant approval for the conversion unless any of such documents are adjusted in accordance with his requirements, the said documents as so adjusted; and

(b) any additional documents which the board of directors of the society may find necessary.

(3) If such meeting adopts the proposed special resolution submitted to it by virtue of subsection (2)(a), the registrar shall, at the request of the society, issue a certificate to it to the effect that he has granted approval for the proposed conversion.

65F. Registration of controlling company in respect of deposit-taking institution established by conversion. — (1) A public company intending to acquire control over a deposit-taking institution established by a conversion in terms of this Chapter may notwithstanding section 43(1) of the Deposit-taking Institutions Decree, 1993, apply in terms of that section for registration as a controlling company in respect of such deposit-taking institution at any time after the special resolution referred to in section 65B authorizing the conversion has been adopted.

(2) A company which has applied for registration as a controlling company in the circumstances mentioned in subsection (1) shall not be registered as such a controlling company before the deposit-taking institution in respect of which it has applied is established.

(3) In addition to any other condition which the registrar may impose under section 44(1) of the Deposit-taking Institutions Decree, 1993, in respect of a company applying for registration as a controlling company in the circumstances mentioned in subsection (1), he may impose a condition requiring the company -

(a) within a specified period after the establishment of the deposit-taking institution to acquire control over the deposit-taking institution;

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(b) within a specified period to make an offer to persons referred to in paragraph (c) of the definition of 'conversion scheme' in section 65A, or to such persons and to members of the public, to take up shares in it in accordance with the relevant conversion scheme.

(4) No registration fee and additional fee referred to in section 63(2) of the Companies Act, 1973 shall be payable in respect of the registration in terms of that Act of the memorandum and articles of association of a public company formed specifically for the purpose of obtaining registration in terms of this section as a controlling company; Provided that the said fees shall become payable if such a company fails to apply for, or is unable to obtain, registration as such a controlling company.

65G. Registration of memorandum and articles of association by Registrar of Companies. — (1) A society shall be converted into a deposit-taking institution upon registration by the Registrar of Companies in terms of section 63 of the Companies Act, 1973 of the memorandum and articles of association of the public company which is established by the conversion.

(2) The Registrar of Companies shall, notwithstanding the Companies Act, 1973, be competent to register the memorandum and articles of association of a public company established by the conversion of a society into a deposit-taking institution but shall not register such a memorandum and articles of association unless the application is accompanied by a certificate issued in terms of section 65E(3).

(3) For the purposes of the registration of the memorandum and articles of association of any such company in terms of the Companies Act, 1973 -

(a) the persons referred to in section 65C(2)(e)(v) shall, if they accept their appointment as the first directors of the company, sign the memorandum and articles of association as if they were the subscribers of such company as contemplated in section 54(2) of the Companies Act, 1973;

(b) no registration fee and additional fee referred to in section 63(2) of the Companies Act, 1973 shall be payable.

65H. Notice in Gazette of conversion. — (1) Within 14 days after the date of any conversion in terms of section 65G, the company established by the conversion shall forward two certified copies of its certificate of incorporation and its memorandum and articles of association to the registrar and upon receipt of such documents the registrar shall, against payment of the prescribed registration fee, issue to it a certificate of final registration as a deposit-taking institution.

(2) The registrar shall give notice in the *Gazette* of any conversion in terms of this Chapter.

65I. Effects of conversion. — (1) The juristic person which existed as a society before the conversion shall notwithstanding the conversion continue to exist as a juristic person but in the form of a public company deemed to be registered finally as a deposit-taking institution in terms of the Deposit-taking Institutions Decree, 1993 and as from such conversion -

(a) the provisions of the Deposit-taking Institutions Decree, 1993 shall apply to it;

(b) the provisions of this Act shall cease to apply to it;

(c) a reference in any document to the former society shall, unless inconsistent with the context or otherwise clearly inappropriate, be construed as a reference to the deposit-taking institution;

(d) the persons who immediately before the conversion were directors of the former society shall vacate their offices as such directors and the persons referred to in section 65C(2)(e)(v) shall become the directors of the deposit-taking institution;

(e) the persons who immediately before the conversion were shareholders or members of the former society shall cease to be such shareholders or members; and

(f) all investments in the form of shares issued by the former society and which immediately before the conversion were not yet redeemed shall be deemed to be fixed deposits with the deposit-taking institution.

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(2) The conditions and any tax benefit which were immediately before the date of conversion applicable to an investment in the form of shares referred to in subsection (1)(f) shall, notwithstanding the provisions of the said subsection but subject to the provisions of the law relating to income tax, continue to apply to the investment for a period of 10 years or until it is redeemed, whichever period expires first.

(3) A conversion of a society into a deposit-taking institution shall not affect anything lawfully done by the society before its conversion.

65J. Issue of shares to persons who were members of former society. —

(1) An offer to persons referred to in paragraph (c) of the definition of 'conversion scheme' in section 65A to take up shares in a company established by a conversion in terms of this Chapter or in any company registered or to be registered as a controlling company in respect of any such company shall be made in writing to each individual person and any such offer shall be accompanied by a statement issued by the company concerned and containing such particulars in connection with the offer, the conversion, the company's profit and business prospects and general state of affairs and the other affairs of the company required in terms of the Companies Act, 1973 to be specified in a prospectus, as the registrar may require.

(2) The provisions of the Companies Act, 1973, with respect to the issue of a prospectus or regulating any other requirements with which an offer of shares is required to comply, shall not apply to any offer of shares referred to in subsection (1).

(3) (a) An investment deemed in terms of section 65I(1)(f) to be a fixed deposit with a deposit-taking institution, or any portion of such an investment, may, notwithstanding the conditions attached thereto, be made immediately repayable upon a request in writing by the depositor to the deposit-taking institution to apply the proceeds of such investment, or the said portion thereof, for the payment for shares in the deposit-taking institution or in any company registered or to be registered as a controlling company in respect of such deposit-taking institution which may be allocated to the depositor in pursuance of an offer referred to in subsection (1).

(b) Any condition or benefit attached to an investment deemed in terms of section 65I(1)(f) to be a fixed deposit shall lapse in respect of such investment to the extent to which such investment was applied for the payment for shares in accordance with paragraph (a) of this subsection.

(4) No stamp duty in terms of the Stamp Duties Act, 1968 (Act No. 77 of 1968) shall be payable in respect of -

(a) the issue of shares, in the public company established by such conversion, to a controlling company registered in respect of it in terms of section 65F;

(b) the issue of shares in pursuance of any offer referred to in subsection (1): Provided that this paragraph shall not be construed as exempting from stamp duty any issue of shares to a person referred to in subsection (1) where such shares are issued to such person in pursuance of a public offer of shares contemplated in section 65A(3); or

(c) the registration of the transfer of shares in the public company established by such conversion or in its subsidiary, which shares were sold or otherwise disposed of by that public company to a controlling company registered in respect of it in terms of section 65F, if such sale or disposal has been approved by the registrar.

(5) No amount in terms of section 75(3) of the Companies Act, 1973 shall be payable in respect of an increase of the share capital of a controlling company registered in terms of section 65F to the extent to which such increase of the share capital is necessary to make an offer of shares referred to in subsection (1) of this section: Provided that, if less shares than the number representing such increase in the share capital are taken up in pursuance of such an offer, the amount referred to shall be payable on that portion of the increase represented by the shares not taken up, and such amount shall be payable within 30 days from the date on which the share offer closed.

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(6) Shares referred to in subsection (1) shall not be offered, allocated or issued to persons holding a qualifying interest of lesser value than an amount determined in the conversion scheme, but such shares shall, subject to the provisions of section 65A(2), be offered, allocated or issued to a trustee appointed for such persons by the deposit-taking institution with the approval of the registrar, which trustee shall as soon as may be practicable sell such shares, or the rights thereto, and distribute the net proceeds among those persons.

65K. Effect of conversion on certain provisions. — (1) For the purposes of the Deposit-taking Institutions Decree, 1993 -

- (a) a deposit-taking institution established by a conversion in terms of this Chapter shall not be bound to comply with any requirement of section 70 of that decree for the period ending on the last business day of the second completed quarter after the conversion;
- (b) such a deposit-taking institution or an associate (as defined in section 80(5) of the said Deposit-taking Institutions Decree, 1993) of such a deposit-taking institution which on the date of the conversion lawfully held shares jointly or separately in any registered insurer exceeding the limit specified in section 80(3) of the aforesaid decree, shall not be bound to reduce its or their shareholding to the said limit, but as long as that limit is exceeded -
 - (i) no further shares in such insurer shall be acquired by such a deposit-taking institution or associate or any other associate of such deposit-taking institution; and
 - (ii) the proviso to paragraph (b) and the provisions of paragraph (c) of section 22(4) of this Act shall be applicable as if such deposit-taking institution remained a society: Provided that in such application the reference in the said proviso to members of a society shall be construed as a reference to shareholders in such deposit-taking institution.

(2) Profits which accrued to a society prior to its conversion into a deposit-taking institution, and to the extent to which such profits are used for the declaration and payment of a dividend to a controlling company registered in respect of it in terms of section 65F, shall for the purposes of paragraph 48 of Schedule 4 of the Companies Act, 1973, not be deemed to be pre-acquisition profits."

39. Repeal of section 66 of Act 24 of 1965. — Section 66 of the principal Act is hereby repealed.

40. Amendment of section 67 of Act 24 of 1965, as amended by section 14 of Act 64 of 1968 and section 56 of Act 101 of 1976. — Section 67 of the principal Act is hereby amended -

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) Every society shall have one or more auditors;"
- (b) by the substitution for subsection (12) of the following subsection:

"(12) In the event of an appointment in terms of subsection (11) the registrar shall, in consultation with the auditor, determine the remuneration to be paid to the auditor by the society for his services, and if the society fails to pay the remuneration the registrar shall pay such remuneration and the registrar shall recover from the society an amount equal to that remuneration.";
- (c) by the substitution for subsection (19) of the following subsection:

"(19) A society shall within thirty days of appointment of any auditor under this section apply to the registrar for his approval of the appointment."

41. Insertion of section 71A in Act 24 of 1965. — The following section is hereby inserted in the principal Act after section 70:

"71A. Certain returns and documents to be certified. — Any return or document to be furnished to the registrar by a society in terms of a requirement of this Act shall be furnished in duplicate, be certified as true and correct by the chief executive officer of the society and be endorsed by such officer with the date on which it is so certified."

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42. Substitution of section 73 of Act 24 of 1965. — The following section is hereby substituted for section 73 of the principal Act:

"73. Inspection of documents. — (1) Upon payment of the prescribed fees any person may obtain from the registrar a certificate of the registration of any society or a certified copy thereof and may inspect and make or obtain a copy of or an extract from the rules of a society or any of the undermentioned documents lodged in respect of the last ten preceding calendar years with the registrar by any society, but no other documents, namely -

- (a) the return referred to in section 34 or 34A;
- (b) the annual account, balance sheet and subsidiary statements referred to in sub-sections (9) and (10) of section 35; and
- (c)
- (d) the names and addresses of the directors of a society.

(2) Notwithstanding the provisions of subsection (1), the returns, statements and documents referred to therein may, in the case of a society whose registration has been cancelled, be inspected and copies thereof or extracts therefrom made or obtained, only for a period of five years as from the date of such cancellation of registration."

43. Repeal of section 74 of Act 24 of 1965. — Section 74 of the principal Act is hereby repealed.

44. Substitution of section 75 of Act 24 of 1965. — The following section is hereby substituted for section 75 of the principal Act:

"75. Only a society may claim to be successor of or to be connected with a mutual building society. — A person other than a society or agent of a society, who in any letter, account or other document or by advertisement or in any other medium or manner of announcement to the public states that he is the successor of or has or had any connection with any mutual building society, shall be guilty of an offence."

45. Amendment of section 76 of Act 24 of 1965. — Section 76 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) No officer of a society and no firm in which such officer has a direct interest shall purchase or be interested in the purchase of any property or a right to property owned by or mortgaged to the society and which is sold by or at the instance of the society or is sold at a judicial sale at the instance of any other person, unless the property is purchased at a duly advertised public sale or the sale is approved by the registrar."

46. Amendment of section 78 of Act 24 of 1965. — Section 78 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Any society which fails -

- (a) to render to the registrar within the period fixed by or under this Act any account, balance sheet, statement or other document required by this Act to be rendered by it to the registrar, or
- (b) to amend or complete any document referred to in paragraph (a), when required by the registrar to do so, or
- (c) to furnish to the registrar upon demand by him any information required by him for the purposes of this Act, or
- (d) to lodge or send any notice or perform any act which the society is by this Act required to lodge, send or perform,

shall be guilty of an offence."

47. Repeal of section 79 of Act 24 of 1965. — Section 79 of the principal Act is hereby repealed.

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48. Substitution of section 80 of Act 24 of 1965. — The following section is hereby substituted for section 80 of the principal Act:

"80. Offences and penalties. — (1) Any person who -

- (a) contravenes or fails to comply with a provision of section 20(2), 22(4), 23A, 30(1), 30B, 31(1), 32(1) or (2), 32A, 32C(1), 32D(1), 34, 34A, 40(1), 42(a) or (b), 43, 44(1), 46, 48, 49, 49A(1), 49C(1) or (2), 49D(1), 49(E), 49F, 49G, 49H(1) or (3), 49I(1) or (3) or 66(1) or (2),
- (b) contravenes or fails to comply with a provision of a scheme referred to in section 30A which has been approved by the registrar,
- (c) fails to comply with a requirement under section 34A(2) or a directive under section 38,
- (d) in any application, return, statement or other document under this Act wilfully furnishes information or makes a statement which is false in any material respect,
- (e) gives himself out to be a society while he is not a society, or
- (f) performs a valuation of urban immovable property or of a right to urban immovable property under section 49I and wilfully over-values such property or right,

shall be guilty of an offence.

(2) Any person convicted of an offence under subsection (1) or any other provision of this Act shall be liable to a fine not exceeding R10 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment."

49. Amendment of section 81 of Act 24 of 1965. — Section 81 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Every alteration or addition made in terms of subsection (2) shall be published in the *Gazette* and thereupon shall have the same force and effect as if it were contained in the said Schedule."

50. Amendment of section 82 of Act 24 of 1965, as amended by section 16 of Act 64 of 1968. — Section 82 of the principal Act is hereby amended -

(a) by the substitution for subsection (1) of the following subsection:

"(1) Every society other than a terminating society shall obtain from the receiver of revenue of the district in which its head office is situated a mutual building society licence in respect of each and every year."; and

(b) by the substitution for subsection (5) of the following subsection:

"(5) All moneys due under this section shall be a debt to the State and shall be recoverable by action in any competent court by the Commissioner for Inland Revenue."

51. Substitution of section 83 of Act 24 of 1965. — The following section is hereby substituted for section 83 of the principal Act:

"83. Annual report by Registrar. — (1) The registrar shall as soon as may be practicable after the expiry of each financial year of mutual building societies submit to the Minister a report on his activities in terms of this Act during that financial year.

(2) The Minister shall table a copy of the report submitted to him in terms of subsection (1) in the Council of State within 14 days after receipt thereof."

52. Repeal of section 85 of Act 24 of 1965. — Section 85 of the principal Act is hereby repealed.

53. Substitution of section 88 of Act 24 of 1965. — The following section is hereby substituted for section 88 of the principal Act:

"88. Short title. — This Act shall be called the Mutual Building Societies Act, 1965."

BUILDING SOCIETIES AMENDMENT DECREE, 1993

54. Substitution of First Schedule of Act 24 of 1965. — The following Schedule is hereby substituted for the First Schedule of the principal Act:

"FIRST SCHEDULE

PREScribed FEES

	R
1. For the certificate of provisional registration of a society.....	100,00
2. For the certificate of registration of a society.....	20,00
3. For the certificate of registration of change of name.....	20,00
4. For the registration of alteration of rules.....	10,00
5. For every document required to be authenticated by the Registrar and not chargeable with any other fee.....	1,00
6. For every inspection, in terms of section 73 of the Act, of the rules of a society or the names and addresses of its directors or its monthly return for a particular month or its annual returns for a particular financial year.....	2,00
7. For any photostatic or double-spaced typewritten copy of or extract from any document made by the Registrar, per A4 sheet or portion thereof.....	0,50
8. For the written confirmation of the fact of registration, change of name or amendment of rules of a society.....	1,00
9. For the examination of every copy certified as a true copy of a document in the custody of the Registrar when the copy so certified is not made by the Registrar (in addition to the fee for the signature of the Registrar), per A4 sheet or portion thereof.....	1,00
10. For searching for documents for purposes of item 6 or 7.....	2,00

No fee is payable for any document or copy of a document supplied to a State department.

The Registrar may dispense with the fee in cases where he is satisfied that the inspection, copy or extract in question is desired for the purpose of furthering some public interest."

55. Substitution of arrangement of sections. — The following arrangement is hereby substituted for the arrangement of the sections of the principal Act appearing before section 1:

"ARRANGEMENT OF ACT

Chapter	I: Introductory (sections 1 to 3)
Chapter	II: Formation and registration of societies (sections 4 to 11)
Chapter	III: Administration of societies (sections 12 to 25)
Chapter	IV: Financial requirements (sections 26 to 37)
Chapter	V: Deposits and advances (sections 38 to 49K)
Chapter	VI: Enquiries and investigations (sections 50 to 54)
Chapter	VII: Amalgamation, winding-up and dissolution (sections 55 to 65)
Chapter	VIIA: Conversion of mutual building societies (sections 65A to 65K)
Chapter	VIII: General provisions (sections 66 to 88)
First Schedule	
Second Schedule."	

BUILDING SOCIETIES AMENDMENT DECREE, 1993

56. Short title and commencement. — (1) This decree shall be called the Building Societies Amendment Decree, 1993 and shall come into operation on a date to be fixed by the Head of State by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this decree.

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GOVERNMENT NOTICE No. 66 OF 1993			GOVERNMENT NOTICE No. 66 OF 1993		
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