

PRESIDENT'S OFFICE

No. 1058.  
26 June 1996

NO. 32 OF 1996: SUPERVISION OF FINANCIAL INSTITUTIONS RATIONALISATION ACT, 1996.

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

ACT

To repeal certain laws relating to financial institutions applying in the territories of the former Transkei, Bophuthatswana, Venda and Ciskei; to apply the laws of the Republic relating to the regulation and control of financial institutions to institutions registered in terms of the laws so repealed; and to extend the operation of the laws so applied to the whole of the national territory of the Republic; and to provide for matters connected therewith.

(English text signed by the President.)

(Assented to 21 June 1996.)

BE IT ENACTED by the Parliament of the Republic of South Africa. as follows:-

Definitions

1. In this Act, unless the context indicates otherwise

- (i) "Board" means the Financial Services Board, established by section 2 of the Financial Services Board Act; (vi)
- (ii) "Constitution" means the Constitution of the Republic of South Africa. 1993 (Act No. 200 of 1993); (iii)
- (iii) "effective date" means the date of commencement of this Act:
  - (i)
- (iv) "executive officer" means the executive officer of the Board referred to in section 13 of the Financial Services Board Act: (viii)
- (v) "financial institution" means
  - (a) any institution of the nature of a financial institution referred to in the Financial Services Board Act;
  - (b) any institution of the nature of a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), or of the nature of a mutual bank as defined in section 1 (1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993), and which immediately prior to the effective date carried on business in or was regulated under any of the laws of, the former Transkei, Bophuthatswana, Venda or Ciskei repealed by section 2; (ii)
- (vi) "Financial Services Board Act" means the Financial Services Board Act. 1990 (Act No. 97 of 1990); (x)
- (vii) "Minister" means the Minister of Finance: (v)
- (viii) "prescribed", in relation to a financial institution-

- (a) referred to in paragraph (a) of the definition of "financial institution", means prescribed by the Board;
- (b) referred to in paragraph (b) of the definition of "financial institution", means prescribed by the Registrar referred to in paragraph (b) of the definition of "Registrar", with the concurrence of the Minister, by regulation in the Gazette: Ox)
- (ix) "Registrar", in relation to a financial institution
  - (a) referred to in paragraph (a) of the definition of "financial institution", means the executive officer:
  - (b) referred to in paragraph (b) of the definition of "financial institution", means the Registrar of Banks, referred to in section 1 of the Banks Act. 1990; (vii)
- (x) "repealed law" means a law repealed by section 2(1); (iv)
- (xi) "RSA financial services law" means any law relating to the regulation or supervision of any financial institution, or any law in terms of which such institution carries on business, referred to in Schedule 2. (xi)

Repeal of laws, and savings

2. (1) Subject to the provisions of this Act, the laws referred to in Schedule 1 are hereby repealed.

(2) Subject to subsection (3) anything done in terms of any repealed law, excluding the establishment of any office or the appointment of any person, committee or board charged with regulatory or supervisory functions in respect of financial institutions, shall be deemed to have been done in terms of the corresponding RSA financial services law.

(3) Any right to carry on the business of a financial institution in terms of subsection (2), except in the case of an insurer which is a subsidiary of an insurer registered in the Republic, may be exercised only in the territory in which the relevant repealed law in terms of which such right to carry on such business was acquired, applied immediately before the effective date.

(4) (a) A financial institution referred to in subsection (3) which intends to carry on business also in that part of the Republic outside the relevant territory referred to in that subsection, may in the prescribed manner and on payment of the prescribed fee apply to the Registrar for permission to carry on business also in that part of the Republic.

(b) The Registrar shall in considering an application submitted to him or her in terms of paragraph (a) have due regard to the public interest. the interests of existing financial institutions, the interests of the users of the financial services offered by them, and the conditions and requirements subject to which the right to carry on the business concerned is granted to any person in terms of the relevant RSA financial services law, and may, if he or she deems it necessary, impose reasonable conditions and lay down reasonable requirements with which the applicant shall comply before the permission applied for is granted.

(c) If the Registrar is satisfied that an applicant has complied with any such conditions and requirements he or she shall-

- (i) by notice in the Gazette make known the fact that the

permission which had been applied for has been granted, with effect from a date determined in the notice;

- (ii) inform the applicant accordingly; and cause the necessary endorsements to be made in or on the relevant official records and documents.

(5) (a) The President may, after consultation with the Minister, by proclamation in the Gazette, repeal or amend, with retrospective effect. any law not mentioned in Schedule 1, which applies in any of the former territories of the Transkei, Bophuthatswana, Venda and Ciskei, and which relates to the financial or investment services industry, the existence of which had come to light at any time subsequent to the date of the passing of this Act, and the repeal or amendment of which is necessary for the effective application of this Act and the achievement of its objects: Provided that such repeal or amendment shall not adversely affect any permission or authority granted in terms of the law so repealed or amended.

(b) The provisions of paragraphs (b) and (c) of section 235(7) of the Constitution shall mutatis mutandis apply to any proclamation contemplated in paragraph (a).

(6) Where any official or employee who immediately prior to the effective date was employed by any of the former states of Transkei, Bophuthatswana, Venda or Ciskei in connection with the administration of any repealed law is immediately after that date or within such period thereafter as may be approved by the Board, employed by the Board, the provisions of section 15 of the Financial Services Board Act shall mutatis mutandis apply to such person, his or her pension rights. the pension fund of which he or she was a member and the pension fund of which he or she requests to become a member.

Powers of Board and Registrar in respect of financial institutions

3. (1) The Board may in terms of section 15A of the Financial Services Board Act impose a special levy, which shall apply to the exclusion of any other levies payable by an institution in terms of section 15A, on any financial institution referred to in Paragraph (a) of the definition of " financial institution"-

- (a) in respect of the year in which the effective date falls, or may decide that no levies shall be payable in respect of such year, and
- (b) in respect of any year thereafter. until permission in terms of section 2(4) (c) has been granted in respect of that institution.

(2) The Registrar may-

- (a) take such steps as may be necessary for the transfer of any official documents and records relating to financial institutions in territories in which repealed laws applied, to offices in the Republic;
- (b) in such manner as he or she may deem fit, including a public notice, request any financial institution to provide him or her within a specified period with such information and particulars as he or she may require for effective administration or supervision of that financial institution. and any Such financial institution shall within that period comply with Such request:
- (c) take such other administrative steps as may be necessary for the effective application of the provisions of this Act, or of any RSA financial services law in respect of financial institutions referred to in any repealed law; and

- (d) with the concurrence of the Minister, grant written temporary exemption to any financial institution referred to in any repealed law, subject to the conditions which he or she so determines, from any provision of a law referred to in section 4.

Application of certain laws to whole of Republic

4. The laws mentioned in Schedule 2 shall, subject to the provisions of this Act, with effect from the effective date apply to the whole of the national territory of the Republic.

Short title and commencement

5. This Act shall be called the Supervision of Financial Institutions Rationalisation Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

SCHEDULE 1

Laws repealed

(Section 2(1))

No. and year of law	Title	Territory in which applicable
Act No. 27 of 1943	Insurance Act, 1943	Transkei
Act No. 20 of 1983	Insurance Amendment Act, 1983	Transkei
Act No. 24 of 1956	Pension Funds Act, 1956	Transkei
Act No. 68 of 1962	Inspection of Financial Institutions Act, 1962	Transkei
Act No. 23 of 1965	Banks Act, 1965	Transkei
Act No. 27 of 1980	Transkei Building Society Act, 1980	Transkei
Act No. 28 of 1980	Banks Amendment Act, 1980	Transkei
Act No. 22 of 1981	Financial Institutions Amendment Act, 1981	Transkei
Act No. 39 of 1984	Financial Institutions (investment of Funds) Act, 1984	Transkei
Act No. 15 of 1985	Financial Institutions Amendment Act, 1985	Transkei
Decree No. 12 of 1992	Amendment of Insurance Act Decree, 1992 (Decree No. 12 of 1992)	Transkei
Act No. 27 of 1943	Insurance Act, 1943	Bophuthatswana
Act No. 18 of 1947	Unit Trusts Control Act, 1947	Bophuthatswana
Act No. 24 of 1956	Pension Funds Act, 1956	Bophuthatswana
Act No. 25 of 1956	Friendly Societies Act, 1956	Bophuthatswana
Act No. 68 of 1962	Inspection of Financial Institu-	Bophuthatswana

	tions Act, 1962	
Act No. 48 of 1964	Participation Bonds Act, 1964	Bophuthatswana
Act No. 56 of 1964	Stock Exchanges Control Act, 1964	Bophuthatswana
Act No. 23 of 1965	Banks Act, 1965	Bophuthatswana
Act No. 24 of 1965	Mutual Building Society Act, 1965	Bophuthatswana
Proclamation No. 28 of 1979	Regulations for the Licensing of Insurance Brokers and Insurance Sales, 1979	Bophuthatswana
Act No. 61 of 1980	Building Societies Amendment Act, 1980	Bophuthatswana
Act No. 39 of 1984	Financial Institutions (investment of Funds), Act, 1984	Bophuthatswana
Act No. 35 of 1980	Banks Amendment Act, 1990	Bophuthatswana
Act No. 54 of 1981	Unit Trusts Control Act, 1981	Bophuthatswana
Act No. 35 of 1988	Banks Amendment Act, 1988	Bophuthatswana
Act No. 13 of 1989	Insurance Amendment Act, 1989	Bophuthatswana
Act No. 14 of 1989	Financial Institutions Amendment Act, 1989	Bophuthatswana
Act No. 18 of 1989	Financial Institutions Second Amendment Act, 1989	Bophuthatswana
Act No. 19 of 1989	Insurance Second Amendment Act, 1989	Bophuthatswana
Act No. 18 of 1991	Insurance Amendment Act, 1991	Bophuthatswana
Act No. 50 of 1992	Banks Amendment Act, 1992	Bophuthatswana
Act No. 25 of 1993	Building Societies Amendment Act. 1993	Bophuthatswana
Act No. 27 of 1943	Insurance Act, 1943	Venda
Act No. 24 of 1956	Pension Funds Act, 1956	Venda
Act No. 25 of 1956	Friendly Societies Act, 1956	Venda
Act No. 68 of 1962	Inspection of Financial Institutions Act, 1962	Venda
Act No. 23 of 1965	Banks Act, 1965	Venda
Act No. 24 of 1965	Mutual Building Societies Act, 1965	Venda
Act No. 39 of 1984	Financial Institutions (Investment of Funds) Act, 1984	Venda
Act No. 26 of 1987	Building Societies Amendment	Venda

	Act, 1987	
Regulations in Regulation Gazette No. 13 of 1991	Regulations relating to Deposit-taking Institutions, 1991	Venda
Proclamation No. 18 of 1991	Deposit taking Institutions Proclamation, 1991	Venda
Act No. 27 of 1943	Insurance Act, 1943	Ciskei
Act No. 18 of 1947	Unit Trusts Control Act, 1947	Ciskei
Act No. 24 of 1956	Pension Fund Act, 1956	Ciskei
Act No. 68 of 1962	Inspection of Financial Institutions Act, 1962	Ciskei
Act No. 56 of 1964	Stock Exchanges Control Act, 1964	Ciskei
Act No. 23 of 1965	Banks Act, 1965	Ciskei
Act No. 24 of 1965	Mutual Building Societies Act, 1965	Ciskei
Act No. 35 of 1985	Building Societies Amendment Act, 1985	Ciskei
Decree No. 8 of 1993	Pension Funds Act Decree, 1993	Ciskei
Decree No. 15 of 1993	Building Societies Amendment Decree, 1993	Ciskei
Decree No. 16 of 1993	Deposit-taking Institutions Decree, 1993	Ciskei

## SCHEDULE 2

Laws of the Republic which apply to the whole of the national territory of the Republic

(Section 4)

1. Insurance Act, 1943 (Act No. 27 of 1943)
2. Pension Funds Act, 1956 (Act No. 24 of 1956)
3. Friendly Societies Act, 1956 (Act No. 25 of 1956)
4. Mutual Building Societies Act, 1965 (Act No. 24 of 1965)
5. Unit Trusts Control Act, 1981 (Act No. 54 of 1981)
6. Participation Bonds Act, 1981 (Act No. 55 of 1981)
7. Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984)
8. Financial Institution (Investment of Funds) Act, 1984 (Act No. 39 of 1984)
9. Banks Act, 1990 (Act No. 94 of 1990)
10. Financial Services Board Act, 1990 (Act No. 97 of 1990)

11. Safe Deposit Securities Act, 1992 (Act No. 85 of 1992)
12. Financial Supervision of Multilateral Motor Vehicle Accidents Fund Act, 1993 (Act No. 8 of 1993)
13. Mutual Banks Act, 1993 (Act No. 124 of 1993)
14. Policy Board for Financial Services and Regulation Act, 1993 (Act No. 141 of 1993)
15. Section 17 of the Financial Institutions Amendment Act, 1990 (Act No. 64 of 1990)
16. Any provision-
  - (a) of any Act of Parliament which amends any law or provision of a law mentioned in this Schedule; and
  - (b) of any regulation, notice or similar subordinate legislative or administrative measure made, issued or taken in terms of any law referred to in this Schedule, and which has on the effective date not yet come into operation.