

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
CO-OPERATIVE BANKS BILL**

[B 13—2007]

*(As agreed to by the Portfolio Committee on Finance
(National Assembly))*

[B 13A—2007]

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AMENDMENTS AGREED TO

CO-OPERATIVE BANKS BILL

[B 13—2007]

CLAUSE 1

1. On page 6, in line 19, to omit “needs” and to substitute “objectives”.
2. On page 6, in line 32, after “a” to insert “business,”.
3. On page 6, from line 36, to omit the definition of “executive officer” and to substitute:

“executive officer” means any employee of a co-operative bank that reports directly to the managing director;

4. On page 6, in line 53, to omit “and”.

CLAUSE 2

1. On page 7, in line 38, to omit “market”.

CLAUSE 3

1. On page 7, in line 54, to omit the second “or” and to substitute “and”.
2. On page 7, in line 57, to omit “one of”.

CLAUSE 9

1. On page 9, in line 43, to omit “or”.
2. On page 9, in line 48, after “debts;” to insert “or”.
3. On page 9, from line 53, to omit subparagraph (vi).

CLAUSE 11

1. On page 10, after line 22, to insert the following paragraph:

(c) has not, for a continuous period of three months, met the criteria referred to in section 3(1) and is unlikely to meet the criteria in the future;

CLAUSE 13

1. On page 11, in line 29, to omit “supervisory” and to substitute “governance”.
2. On page 11, in line 35, to omit paragraph (e) and to substitute:

(e) that certificates, share statements or any other proof of shareholding must be issued to members.

CLAUSE 14

1. On page 12, in line 4, after “members” to insert “, other than deposits referred to in paragraph (a),”.
2. On page 12, in line 8, to omit “indorse” and to substitute “endorse”.
3. On page 12, from line 25, to omit paragraph (c) and to substitute:
 - (c) open an account with a bank registered under the Banks Act to facilitate foreign currency transactions;

CLAUSE 16

1. On page 13, in line 6, to omit “managing directors” and to substitute “managing director”.

CLAUSE 23

1. On page 14, from line 39, to omit paragraph (a).

CLAUSE 24

Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

Deposit insurance obligations of co-operative bank

24. A co-operative bank must pay to the Fund such deposit insurance contributions as may be prescribed by the Minister.

CLAUSE 25

Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

Establishment of Co-operative Banks Deposit Insurance Fund

25. The Agency must establish, and must manage, a fund to be known as the Co-operative Banks Deposit Insurance Fund.

CLAUSE 26

1. On page 16, in line 1, to omit “**Establishment and control**” and to substitute “**Control**”.
2. On page 16, from line 2, to omit subsection (1).

3. On page 16, in line 21, after “percentage” to insert “or amount”.
4. On page 16, from line 42, to omit paragraph (c).

CLAUSE 29

1. On page 17, from line 8, to omit subsection (1) and to substitute:

(1) Before an amalgamation, division or transfer of assets, rights, liabilities and obligations by a co-operative bank, such co-operative bank must apply to the supervisor for the approval of the amalgamation, division or transfer.
2. On page 17, from line 13, to omit subsection (3) and to substitute:

(3) If an amalgamation, division of or transfer by a co-operative bank will result in more than 25% of the assets, rights, liabilities or obligations of a co-operative bank being transferred to another co-operative bank, the supervisor may not approve that amalgamation, division of or transfer or issue a certificate of registration in respect thereof without the written consent of the Minister to that amalgamation, division or transfer.

CLAUSE 30

1. On page 17, in line 21, after “co-operative” to insert “bank”.

CLAUSE 31

1. On page 17, from line 46, to omit paragraphs (c), (d) and (e).

CLAUSE 41

1. On page 20, from line 31, to omit subsection (3) and to substitute the following subsections:

(3) If a primary co-operative bank holds deposits in excess of 20 million Rand for a continuous period of three months, the Agency must inform the South African Reserve Bank within one month of the expiry of that three month period that the primary co-operative bank is subject to its authority and provide the South African Reserve Bank with the necessary information.

(4) If a primary co-operative bank holds deposits of less than 20 million Rand for a continuous period of three months the South African Reserve Bank must inform the Agency within one month of the expiry of that three month period that the primary co-operative bank is subject to its authority and provide the Agency with the necessary information.

CLAUSE 55

1. On page 24, in line 15, after “banking” to insert “, including, despite section 3(1), deposit-taking co-operatives”.
2. On page 24, from line 22, to omit paragraph (g).
3. On page 24, in line 41, to omit the second “and”.

4. On page 24, after line 41, to insert the following paragraph:
 - (b) assist co-operative banks in auditing their financial statements; and

CLAUSE 56

1. On page 25, in line 4, to omit paragraph (f) and to substitute:
 - (f) enter into and decide upon the manner in which agreements must be entered into;

CLAUSE 57

1. On page 25, in line 29, after “*Gazette*” to insert “and such other electronic and printed media as the Agency considers appropriate”.
2. On page 25, in line 30, to omit “co-operative banks and representative bodies” and to substitute “the public”.

CLAUSE 63

1. On page 27, in line 28, to omit “was not entitled” and to substitute “did not qualify”.

CLAUSE 73

1. On page 29, in line 31, to omit “its” and to substitute “the Agency’s”.
2. On page 29, in line 32, to omit “,at any time, may” and to substitute “may at any time”.

CLAUSE 77

1. On page 31, in line 16, to omit “incorporated as a co-operative under the Co-operatives Act and”.

CLAUSE 86

1. On page 32, after line 47, to insert the following subsection:
 - (4) Before regulations in terms of this Act are made, the Minister must publish the draft regulations in the *Gazette* for public comment and submit the regulations to Parliament, while it is in session, for parliamentary scrutiny at least one month before their promulgation.

SCHEDULE

1. On page 34, after line 13, to insert the following paragraph:
 - (a) by the insertion after the definition of “company” of the following definitions:

“ ‘**co-operative bank**’ has the meaning assigned to it in section 1 of the Co-operative Banks Act, 2007;
‘**Co-operative Banks Act**’ means the Co-operative Banks Act, 2007;”;

2. On page 34, from line 22, to omit “tertiary”.
3. On page 34, from line 51, to omit “secondary or tertiary”.
4. On page 35, from line 6, to omit “tertiary”.
5. On page 35, in line 17, to omit “by the” and to substitute:

by—

(a) the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) to act as a medium for communication by its members with the South African Government, the Reserve Bank, the Registrar of Banks, the Co-operative Bank Supervisors, the Registrar of Financial Institutions, any financial or other exchange, other public bodies, authorities and officials, the news media, the general public and other private associations and institutions; and”; and

(b) the

6. On page 35, in line 28, to omit “secondary”.
7. On page 35, in line 34, to omit “secondary”.
8. On page 35, in line 43, to omit “secondary”.
9. On page 35, in line 50, to omit “secondary”.
10. On page 35, in line 60, to omit “secondary and tertiary”.
11. On page 35, after line 64, to insert the following items and row:

6. Amendment of section 8 by—

(a) the substitution for the heading of the following heading:

“**Curatorship, judicial management or liquidation**”; and

(b) the substitution for subsection (1) of the following subsection:

“(1) The provisions of this section apply despite anything to the contrary in the law relating to insolvency or in the Companies Act, the Co-operative Banks Act, the Banks Act or the Mutual Banks Act.”.

7. Amendment of section 10 by the substitution for subsection (2) of the following subsection:

“(2) Subject to subsection (3), any information—

(a) obtained by the Reserve Bank in terms of subsection (1); and

(b) identifying a specific Reserve Bank settlement system participant,

is confidential and may not be disclosed by any director or officer of the Reserve Bank to any person, except to an officer of the Reserve Bank who requires that information for purposes of the execution of his or her duties in terms of this Act, the South African Reserve Bank Act, the Co-operative Banks Act, the Banks Act or the Mutual Banks Act.”.

Act 89 of 1998	Competition Act, 1998	<p>1. Amendment of section 18 by—</p> <p>(a) the substitution in subsection (2)(a) for subparagraph (ii) of the following subparagraph: “(ii) a transaction for which consent is required in terms of section 54 of the Banks Act, 1990 (Act No. 94 of 1990), or <u>section 29 of the Co-operative Banks Act, 2007</u>; and”; and</p> <p>(b) the substitution in subsection (2)(b) for subparagraph (ii) of the following subparagraph: “(ii) it is in the public interest that the merger is subject to the jurisdiction of the Banks Act, 1990 (Act No. 94 of 1990), or <u>section 29 of the Co-operative Banks Act, 2007, only</u>.”.</p>
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LONG TITLE

1. On page 2, in the second line, to omit “market”.