STATE PRESIDENT'S OFFICE

No. 1200.
1 July 1993

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

No. 104 of 1993: Financial Institutions Second Amendment Act, 1993.

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Insurance Act, 1943, so as to amend or delete certain definitions; to further regulate the provisions relating to the statement of assets, and relating to assets to be held by insurers; to regulate anew the duties of intermediaries in respect of the payment to insurers of moneys received in respect of premiums; to prohibit certain inducement to take out policies; to further regulate insurance by members of Lloyds; to delete the requirements in respect of licences; to amend the provisions in respect of penalties; and to further regulate the listed securities which may be taken into account as insurance assets; to amend the Pension Funds Act, 1956, so as to amend a certain definition; to further regulate the rules of pension funds; to exclude arrear contributions from deductions which are prohibited; and to further regulate certain death benefits; to amend the Friendly Societies Act, 1956, so as to amend or delete certain definitions; to amend the Unit Trusts Control Act, 1981, so as to amend certain definitions; to provide that certain existing management companies may be exempted from compliance with increases in minimum capital requirements; to provide for the inclusion of derivative instruments in a unit portfolio; to further regulate the appointment of auditors of a management company; and to regulate anew the listing of units by a stock exchange; to amend the Participation Bonds Act, 1981, so as to delete the requirement that the registrar approves the cession of rights in a participation mortgage bond where the purpose of such cession is to secure a debt; to amend the Stock Exchanges Control Act, 1985, so as to delete certain definitions; and to provide for the admission of members of a financial market referred to in the Financial Markets Control Act, 1989, to restricted membership of a stock exchange; to amend the Financial Markets

Control Act, 1989, so as to define a certain expression; and to further regulate the matters included in the rules of a financial exchange; to amend the Financial Services Board Act, 1990, so as to amend a certain definition; to make further provision in relation to the disqualification of persons as members of the board; and to further regulate the annual report of the board; to amend the Safe Deposit of Securities Act, 1992, so as to amend a certain definition; and to provide for the payment of certain fees; to provide in certain of the above-mentioned Acts, for reporting to the Minister; to provide in all of the above-mentioned Acts, for the rectification of outdated references; and to provide for matters connected therewith.

(Afrikaans text signed by the Acting State President.)
(Assented to 28 June 1993.)

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

Amendment of section 1 of Act 27 of 1943, as amended by section 2 of Act 73 of 1951, section 39 of Act 24 of 1956, section 50 of Act 25 of 1956, section 1 of Act 79 of 1959, section 1 of Act 10 of 1965, section 1 of Act 41 of 1966, section 1 of Act 65 of 1968, section 1 of Act 39 of 1969, section 1 of Act 91 of 1972, section 1 of Act 101 of 1976, section 1 of Act 94 of 1977, section 1 of Act 80 of 1978, section 1 of Act 103 of 1979, section 1 of Act 99 of 1980, section 1 of Act 36 of 1981, section 1 of Act 86 of 1984, section 1 of Act 106 of 1985, section 1 of Act 54 of 1989 and section 1 of Act 83 of 1992

1. Section 1 of the Insurance Act, 1943, is hereby amended-

(a) by the substitution in subsection (1) for the definition in the Afrikaans text of "aktuaris" of the following definition:

"'aktuaris' beteken 'n **'Fellow'** *Genoot* van die **'Institute of Actuaries'** *Instituut van Aktuarisse* van Engeland of van die **`Faculty of Actuaries'** *Fakulteit van Aktuarisse* **van** *in* Skotland of van die **'Society of Actuaries'** *Vereniging van Aktuarisse* van Amerika of van 'n ander deur die Minister goedgekeurde instituut, fakulteit, vereniging of kapittel van aktuarisse;";

(b) by the substitution in subsection (1) for the definition of "domestic policy" of the following definition:

" 'domestic policy' means any policy issued anywhere upon an application made or presented to a representative of the insurer concerned (or to any person on behalf of such a representative) at any place in the Republic, not being a life policy which has

subsequent to the date of issue thereof been made payable at a place outside the Republic at the request of the owner and in respect of which the owner has also agreed in writing that it shall not be regarded as a domestic policy for the purposes of this Act, but includes any life policy issued outside the Republic which has subsequently been made payable in the Republic at the request of the owner, provided the owner has also agreed in writing that it shall be regarded as a domestic policy for the purposes of this Act;";

(c) by the insertion in subsection (1) after the definition of "domestic policy" of the following definition:

"*'Financial Services Board' means the Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);*";

(d) by the substitution in subsection (1) for paragraph (a) of the definition of "insurance business" of the following paragraph:

"(a) the activities of a friendly society, unless such society-

(i) employs a person whose main remunerated occupation, *in respect of any business which after the date of commencement of section 1(d) of the Financial Institutions Second Amendment Act, 1993, is, in the opinion of the registrar, insurance business as ordinarily understood,* consists of inducing persons to become members of the society, or of calling on members of the society at their residences or places of work for the purpose of collecting from them contributions or subscriptions towards the society's funds;

(ii) **or unless such friendly society** grants any annuity exceeding R144 per annum; or

(iii) provides in respect of any member or other person for payments **either on the death of such member or other person or** in **the** *any* form of **an endowment or** endowment insurance on the life of such member or other person, *or in the event of sickness or other infirmity, accident, death or other contingency which is, in the opinion of the registrar, insurance business as ordinarily understood,* exceeding in all the sum of **one thousand rand** *R5 000 or such greater amount as determined by the Minister from time to time for a friendly society or certain categories of friendly societies* (**exclusive** *inclusive* of bonuses) at any time after the date of commencement of **the Friendly Societies**

Act, 1956 *section 1(d) of the Financial Institutions Second Amendment Act, 1993,* and not in fulfilment of any obligations in existence before the said date;";

(e) by the substitution in subsection (1) for paragraph (d) of the definition of "insurance business" of the following paragraph:

"(d) any transaction under the **Industrial Conciliation** *Labour Relations* Act, 1956 (Act No. 28 of 1956);";

(f) by the deletion in subsection (1) of the definitions of "Republic" and "Territory"; and

(g) by the substitution for paragraph (b)bis of subsection (2) of the following paragraph:

"(b)bis approved reinsurances referred to in subparagraph **(iii)** *(iv)* of paragraph (a) of the definition of 'approved reinsurances' in subsection (1), shall not be deemed to cover the contingent liabilities under unmatured policies of the insurer by whom such reinsurances have been effected, to an amount exceeding the amount of the moneys maintained in the Republic by the reinsurer with the insurer and on which the insurer has a prior charge and lien as security against losses which may be occasioned by the failure of the reinsurer to discharge his obligations under the relevant policy or contract or by the termination for any reason of such policy or contract;".

Amendment of section 4 Of Act 27 of 1943, as amended by section 1 of Act 19 of 1945, section 3 of Act 73 of 1951, section 4 Of Act 79 of 1959, section 10 of Act 64 of 1960, section 3 of Act 10 of 1965, section 2 Of Act 39 of 1969, section 3 Of Act 101 of 1976, section 2 of Act 103 of 1979, section 4 of Act 99 of 1980, section 2 of Act 86 of 1984 and section 1 of Act 64 of 1990

2. Section 4 of the Insurance Act, 1943, is hereby amended by the substitution in subsection (3)bis for subparagraph (i) of paragraph (b) of the following subparagraph:

"(i) is a company incorporated and registered or deemed to have been incorporated and registered under the Companies Act, 1973 (Act No. 61 of 1973), or a co-operative **society or co-operative company** registered under the **Co-operative Societies Act, 1939 (Act No. 29 of 1939), or the Co-operative Societies Ordinance, 1946 (Ordinance No. 15 of 1946), of the Territory** *Co-operatives Act, 1981 (Act No. 91 of 1981),* or a corporate body established under the provisions of any other law; or".

Amendment of section 15 of Act 27 of 1943, as substituted by section 13 of

Act 73 of 1951 and amended by section 10 of Act 79 of 1959, section 11 of Act 10 of 1965, section 3 Of Act 41 of 1966, section 5 of Act 101 of 1976, section 2 Of Act 50 of 1986, section 9 of Act 54 of 1989 and section 3 of Act 64 of 1990

3. Section 15 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (d) of the following paragraph:

"(d) *(i)* In respect of any short term insurance business, or compulsory third party insurance business no outstanding premium (irrespective of whether or not it has been debited to an insurance broker or an agent of the insurer) shall be included in the statement if at the end of the financial year to which the statement relates and which ends on or after 1 January **1990** *1994*, more than **seventy** *60* days have elapsed since the due date of the premium **as contemplated in subsection (6) of section 20bis** and the value of any other outstanding premiums or premiums debited to insurance brokers or agents of the insurer shall be shown at an amount which in the aggregate does not exceed the full amount of such premiums reduced by-

(i)*(aa)* the amount or estimated amount of any commission which the insurer owes or for which he is likely to become liable in connection with the said premiums;

(ii)*(bb)* the amount or estimated amount of the corresponding outstanding premiums under any reinsurances of the policies in question (less the corresponding commission payable under those reinsurances) unless such amount has been or will be included as a liability in the statement of liabilities prepared under section 13;

(iii)*(cc)* a reserve, in an amount deemed by the registrar to be adequate, but not less than **five** *seven and a half* per cent of the full amount aforesaid, to cover the risk of loss arising from non-receipt by the insurer of any such premiums as aforesaid.

(ii) For the purposes of this paragraph 'due date', in relation to a premium, means-

(aa) in the case of a new policy, the commencement date of the policy;

(bb) in the case of an existing policy which has been renewed, the renewal date of the policy; and

(cc) in the case of an endorsement to a policy and a declaration in accordance with an open marine cargo policy, the first day of

the month which follows on the date the documentation is issued by either the insurer or the agent, broker or other person on behalf of the insurer, whichever is issued first to the policy-holder concerned. ".

Amendment of section 17 of Act 27 of 1943, as substituted by section 12 of Act 10 of 1965 and amended by section 4 of Act 41 of 1966, section 2 of Act 91 of 1972, section 6 of Act 101 of 1976, section 3 of Act 94 of 1977, section 2 of Act 80 of 1978, section 4 of Act 103 of 1979, section 2 of Act 36 of 1981, section 1 of Act 82 of 1982, section 4 of Act 86 of 1984, section 2 of Act 51 of 1988, section 1 of Act 53 of 1989, section 11 of Act 54 of 1989 and section 4 of Act 64 of 1990

4. Section 17 of the Insurance Act, 1943, is hereby amended-

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

"(b) hold in the Republic assets **of one or more** of the kinds mentioned in the Third Schedule to this Act, having an aggregate value not less than the amount of his net liabilities in respect of such business carried on by him in the Republic."; and

(b) by the substitution in paragraph (b) of subsection (4) for the words preceding subparagraph (i) of the following words:

"hold in the Republic assets **of one or more** of the kinds mentioned in the Third Schedule to this Act having an aggregate value not less than the amount of his net liabilities in respect of such business carried on by him in the Republic, plus an additional amount equal to the greater of the following amounts, namely-".

Amendment of section 20bis of Act 27 of 1943, as inserted by section 17 of Act 10 of 1965 and substituted by section 13 of Act 54 of 1989

5. Section 20bis of the Insurance Act, 1943, is hereby amended-

(a) by the substitution for paragraphs (b) and (c) of subsection (2) of the following paragraphs:

"(b) Such guarantee shall be in favour of the South African Insurance Association *or, if that Association ceases to exist or if the Financial Services Board determines otherwise, in favour of the registrar or such other person as determined by the Financial Services Board*, for the benefit of all such insurers and shall be in a form prescribed by regulation and shall be for an amount **certified by the auditor of the agent, broker or person concerned to be**, *with due regard to the return submitted in terms of*

paragraph (c), equal to 20 per cent of the premiums **which became due to registered insurers** *received* by **such** *the* agent, broker or person *concerned* in his last financial year, but not less than R10 000 or more than R50 000 000: Provided that the guarantee to be furnished by an agent, broker or person who becomes indebted to any insurer for the first time, shall be based on 20 per cent of a reasonable estimate of premiums which would **become due to registered insurers** *be received* in his first financial year.

(c) Every such agent, broker or person shall within three months after the expiration of his financial year submit to the South African Insurance Association or, if that Association ceases to exist or if the Financial Services Board determines otherwise, to the registrar or such other person as determined by the Financial Services Board, a return-

(i) in the form prescribed by regulation showing the aggregate amount of premiums received on behalf of registered insurers by such agent, broker or person in his last financial year after setting off any commission due to such agent, broker or person by such registered insurers in respect of such premiums; and

(ii) accompanied by a report, in the case of an agent, broker or other person registered as a company under the Companies Act, 1973 (Act No. 61 of 1973), by an auditor registered under the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), and in the case of any other agent, broker or person, by a person who qualifies as an accounting officer of a close corporation as contemplated in section 60 of the Close Corporations Act, 1984 (Act No. 69 of 1984), and who may not be in the service of the undertaking, but who shall act by special instruction in an independent capacity.

(c)*(d)* If the businesses of two or more agents, brokers or other persons are amalgamated, the provisions of subparagraph (b) shall apply mutatis mutandis to the amalgamated businesses with respect to the annual premium income of the last financial year and the amount of the guarantee.";

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

"(3) Every such agent, broker or person who receives such premiums on behalf of an insurer shall-

(a) close off his records of premium receipts not later than the

last day of the month **following the month** during which **the due date of** such premiums **occurred** *were received*;

(b) pay the amount of such premiums to the insurer within **ten** *15* days after closing the records referred to in paragraph (a); and

(c) simultaneously furnish such insurer with a **detailed payment bordereau** *statement containing such particulars as the insurer may require* in respect of a payment in terms of paragraph (b).";

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

"(5) Payment of a premium by a policyholder in terms of his insurance policy to an agent, broker or other person referred to in subsection (1) shall be deemed to be **specific performance** *payment* in terms of **the** *such* policy."; and

(d) by the deletion of subsection (6).

Amendment of section 23A of Act 27 of 1943, as inserted by section 10 of Act 101 of 1976

6. Section 23A of the Insurance Act, 1943, is hereby amended by the addition of the following subsections:

"*(3) The Minister may make regulations-*

(a) prohibiting any remuneration from passing or being offered; or

(b) prescribing the manner in which and conditions subject to which remuneration may pass or be offered,

from, by or on behalf of any person other than a registered insurer or an underwriter at Lloyds to any person for services rendered or to be rendered by the last-mentioned person towards effecting, maintaining or servicing a policy, or to any person associated in business with or related within the second degree of consanguinity or affinity to any person who has rendered or is to render such services.

(4) Any regulation referred to in subsection (3) may-

(a) apply to-

(i) specified kinds of remuneration only;

(ii) specified classes of insurance business only

(iii) specified types of policies only;

(iv) only specified classes of persons rendering or to render services contemplated in subsection (3);

(v) specified kinds of such services only;

(b) differentiate between the persons from, by or on behalf of whom remuneration may pass or be offered, different kinds of remuneration and different classes of insurance business, types of policies, classes of persons rendering or to render services and kinds of such services.".

Insertion of section 23D in Act 27 of 1943

7. The following section is hereby inserted in the Insurance Act, 1943, after section 23C:

"Prohibition on certain inducement to take out or alter policy

23D. No person shall promise, pay, allow or give, or offer to pay, allow or give, directly or indirectly, to any other person, as an inducement to such other person to take out a policy or to agree to any alteration of any term of an existing policy, any valuable consideration or benefit and no person shall knowingly receive as such an inducement any such valuable consideration or benefit.".

Amendment of section 25 of Act 27 of 1943, as amended by section 22 of Act 73 of 1951, section 8 of Act 39 of 1969, section 10 of Act 103 of 1979, section 11 of Act 99 of 1980, section 1 of Act 54 of 1991 and section 4 of Act 83 of 1992

8. Section 25 of the insurance Act, 1943, is hereby amended by the deletion in subsection (6) of the words following upon paragraph (d).

Amendment of section 29bis of Act 27 of 1943, as inserted by section 23 of Act 10 of 1965 and amended by section 11 of Act 103 of 1979 and section 5 of Act 53 of 1989

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

"(1) If any registered insurer fails to comply within a period of 30 days after having been called upon in writing by the registrar to do so, with **any requirement Or the registrar in terms of subsection (7) of section six or** any provision of section 11, 12, 14, 17 or 18, the

registrar may, with the consent of the Minister, by notice in writing prohibit such insurer, with effect from a date specified in the notice, from issuing any further policies other than paid-up policies in terms of section 62(2) and such other policies as the registrar may permit, or extending any existing policy by endorsement, until such time as such insurer has satisfied the registrar that he is complying with the said **requirement or** provisions, whereupon the registrar shall forthwith in writing withdraw the prohibition.".

Amendment of section 30 of Act 27 of 1943, as amended by section 16 of Act 79 of 1959

10. Section 30 of the Insurance Act, 1943, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The registrar may, with the consent of the Minister, in regard to any registered insurer, and a registered insurer may, in regard to himself, apply to the court for an order in terms of paragraph (c) or (d) of subsection (3) if the registrar or the insurer, as the case may be, is of the opinion that it is desirable for any reason that such an order be made in regard to the registered insurer concerned: Provided that a registered insurer shall not make such an application except by leave of the court, and the court shall not grant such leave unless the insurer has given security to an amount which shall be sufficient in the opinion of the court to satisfy such order in respect of costs as the court may make, and has established prima facie the desirability of the order for which he desires to apply: Provided further that no application shall be made for an order, and an order shall not be made, for the judicial management of the business of a registered insurer who is a co-operative **society or co-operative company** registered or deemed to be registered under the **Co-operative Societies Act, 1939 or the Co-operation Proclamation, 1922 of the Territory** *Co-operatives Act, 1981 (Act No. 91 of 1981)*.".

Amendment of section 32 of Act 27 of 1943, as amended by section 27 of Act 73 of 1951, section 17 of Act 79 of 1959, section 25 of Act 10 of 1965 and section 12 of Act 39 of 1969

11. Section 32 of the Insurance Act, 1943, is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) The law relating to the winding-up of companies or, in the case of a registered insurer who is a co-operative **society or co-operative company** registered or deemed to be registered under the **Co-operative Societies Act, 1939 or the Co-operation Proclamation, 1922 of the Territory** *Co-operatives Act, 1981 (Act No. 91 of 1981)*, the law relating to the winding-up or dissolution of any such society or company, shall apply mutatis mutandis in connection with the winding-up of the business of a registered insurer under this Act, except in so far as those

provisions are inconsistent with any provision of this Act or of an order of the court under section 30(3) (d) or with any direction issued by the court under this section.".

Amendment of section 51 of Act 27 of 1943, as substituted by section 7 of Act 50 of 1986

12. Section 51 of the Insurance Act, 1943, is hereby amended by the deletion of subsection (2).

Amendment of section 60 of Act 27 of 1943, as substituted by section 8 of Act 41 of 1966 and amended by section 2 of Act 65 of 1968, section 7 of Act 86 of l984, section 7 of Act 106 of 1985, section 6 of Act 53 of 1989 and section 16 of Act 54 of 1989

13. Section 60 of the Insurance Act, 1943, is hereby amended-

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

" (a) No person shall carry on such insurance business as aforesaid in the Republic unless he **is licensed as provided by paragraph (e) and** has made a deposit in accordance with the provisions of paragraph (b) and unless the Committee of Lloyds has complied with the provisions of paragraphs (g) and (i) and underwriters at Lloyds have complied with the provisions of paragraph (j).";

(b) by the deletion of paragraph (e) of subsection (1); and

(c) by the substitution for paragraph (f) of subsection (1) of the following paragraph:

"(f) Any person who carries on such insurance business in the Republic shall, within a period of two months as from the expiration of each calendar year or within such further period as the registrar may allow, pay to **the** *a* receiver of revenue **referred to in paragraph (e)** a sum equal to two and a half per cent of the aggregate of all premiums paid during the preceding calendar year on policies which were effected through his agency in terms of this section. ".

Repeal of section 61 of Act 27 of 1943, as amended by section 30 of Act 46 of 1944, section 19 of Act 99 of 1980 and section 8 of Act 83 of 1992

14. Section 61 of the Insurance Act, 1943, is hereby repealed.

Substitution of section 73 of Act 27 of 1943, as substituted by section 12 of Act 101 of 1976

15. The following section is hereby substituted for section 73 of the Insurance Act, 1943:

"General penalty

73. Any person who contravenes any provision of this Act or any regulation made thereunder or fails to fulfil any obligation imposed on him by this Act or any such regulation shall be guilty of an offence and, if no penalty is specially prescribed in this Act or any such regulation for such contravention or default, shall be liable **if the offender is an individual**

(a) in the case of a contravention of section 5, to a fine not exceeding **two thousand rand** *R100 000*, or to imprisonment for a period not exceeding **one year** *five years* **without the option of a fine, or if the offender is not an individual**, *or to both such fine and such imprisonment; and*

(b) in the case of any other contravention, to a fine not exceeding **two thousand rand** *R20 000, or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.*".

Amendment of section 76 of Act 27 of 1943, as substituted by section 9 of Act 41 of 1966 and amended by section 13 of Act 101 of 1976, section 11 of Act 86 of 1984, section 9 of Act 106 of 1985, section 7 of Act 53 of 1989, section 18 of Act 54 of 1989 and section 11 of Act 83 of 1992

16. Section 76 of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (aC) of subsection (1) of the following paragraph:

" (aC) prescribing interim and additional calculations of liabilities under unmatured policies, *as well as assets*, in connection with long term insurance business, the manner in which it is to be done, and the manner and form in which and the periods in respect of which and within which statements in respect thereof shall be furnished to the registrar by insurers;".

Substitution of section 77bis of Act 27 of 1943, as inserted by section 44 of Act 73 of 1951

17. The following section is hereby substituted for section 77bis of the Insurance Act, 1943:

"Exemption from Act 57 of 1988

77bis. The Trust **Moneys Protection Act, 1934** *Property Control Act, 1988 (Act No. 57 of 1988)*, shall not apply in connection with any scheme or arrangement (whether executed under a trust deed or otherwise) under which benefits are provided or are to be provided to any person, if the benefits which, in the opinion of the Master referred to in the said Act, are the principal benefits afforded by such scheme or arrangement, are guaranteed by policies under which a registered insurer is liable.".

Repeal of section 77quat of Act 27 of 1943, as inserted by section 24 of Act 39 of 1969

18. Section 77quat of the Insurance Act, 1943, is hereby repealed.

Amendment of First Schedule to Act 27 of 1943, as substituted by section 34 of Act 10 of 1965 and amended by section 8 of Act 64 of 1990

19. The First Schedule to the Insurance Act, 1943, is hereby amended by the substitution for section 1 of the following section:

"1. Any money held by the Corporation for Public Deposits established by the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984), or approved securities **issued** *registered* in the name of the **Minister of Finance** *registrar* and held in trust on behalf of a person who is obliged to make a deposit under section 60 of this Act, shall be deemed to be money or securities deposited by the said person under this Act.".

Amendment of Third Schedule to Act 27 of 1943, as substituted by section 46 of Act 73 of 1951 and amended by section 24 of Act 79 of 1959, section 36 of Act 10 of 1965, section 10 of Act 41 of 1966, section 27 of Act 39 of 1969, section 1 of Act 23 of 1970, section 15 of Act 101 of 1976, section 36 of Act 9 of 1989 and section 13 of Act 83 of 1992

20. The Third Schedule to the Insurance Act, 1943, is hereby amended-

(a) by the substitution for subparagraph (c) of paragraph 3 of the following subparagraph:

"(c) Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by a provincial administration **or the administration of the Territory**."; and

(b) by the substitution for subparagraph (2) of paragraph 11 of the following subparagraph:

"(2) stocks, shares, debentures or depository receipts-

(a) of a company or other institution which is incorporated outside the Republic; and

(b) which are listed on a licensed stock exchange in the Republic;".

Amendment of section 1 of Act 24 of 1956, as amended by section 21 of Act 101 of 1976, section 9 of Act 94 of 1977, section 10 of Act 80 of 1978, section 38 of Act 99 of 1980, section 3 of Act 51 of 1988, section 20 of Act 54 of 1989, section 29 of Act 97 of 1990 and section 14 of Act 83 of 1992

21. Section 1 of the Pension Funds Act, 1956, is hereby amended-

(a) by the substitution in subsection (1) for the definition of "actuary" of the following definition:

" 'actuary' means any Fellow of *the Institute of Actuaries of England or of the Faculty of Actuaries in Scotland or of the Society of Actuaries of America or of* **an** *any other* institute, faculty, society or chapter of actuaries approved by the Minister;"; and

(b) by the insertion in subsection (1) after the definition of "rules" of the following definition:

" *'this Act' includes any regulation;*".

Amendment of section 2 of Act 24 of 1956, as amended by section 10 of Act 94 of 1977, section 13 of Act 103 of 1979, section 36 of Act 9 of 1989 and section 15 of Act 83 of 1992

22. Section 2 of the Pension Funds Act, 1956, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The provisions of this Act shall not apply in relation to any pension fund which has been established in terms of an agreement published or deemed to have been published under section 48 of the **Industrial Conciliation** *Labour Relations* Act, 1956 (Act No. 28 of 1956), except that such fund shall from time to time furnish the registrar with such statistical information as may be **prescribed** *requested* by the Minister.".

Amendment of section 9 of Act 24 of 1956, as substituted by section 12 of Act 65 of 1968 and amended by section 10 of Act 64 of 1990

23. Section 9 of the Pension Funds Act, 1956, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Every registered fund shall in the manner prescribed by its rules appoint an auditor registered under the Public Accountants' and Auditors' Act, **1951** *1991 (Act No. 80 of 1991)*, who shall not be an officer of the fund, except where the accounts of such a fund in terms of the provisions of any law are to be audited by the **Controller and** Auditor-General **or a Provincial Auditor**

Substitution of section 11 of Act 24 of 1956, as substituted by section 17 of Act 83 of 1992

24. The following section is hereby substituted for section 11 of the Pension Funds Act, 1956:

"Rules

11. (1) The rules of a fund which applies for registration after the date of the coming into operation of section 24 of the Financial Institutions Second Amendment Act, 1993, shall be in the prescribed format and form and shall comply with the prescribed requirements.

(2) A fund which, immediately prior to the date referred to in subsection (1), was a registered fund, shall within the prescribed period ensure that its rules are amended so as to comply with the format, form and requirements contemplated in subsection (1).

(3) (a) If all the amendments referred to in subsection (2) are effected on one occasion within the prescribed period and the registrar is satisfied, on submission to him of a certificate signed by the principal officer of the fund, that the sole reason for the amendments is to comply with the said format, form and requirements, he may register the amendments in accordance with section 12(4) against payment of the prescribed fee, which shall be calculated as if only a single amendment is being effected.

(b) Any amendment of the rules of a fund effected after the date referred to in subsection (1) shall comply with the prescribed format, form and requirements contemplated in subsection (1).

(4) Subject to the provisions of subsections (2) and (3), the provisions of this section as they existed before the substitution thereof by section 24 of the Financial Institutions Second Amendment Act, 1993, shall continue to apply in respect of the rules of a fund referred to in subsection (2) until the rules of such fund comply with the format, form and requirements contemplated in subsection (1).".

Amendment of section 30 of Act 24 of 1956, as amended by section 17 of Act 103 of 1979

25. Section 30 of the Pension Funds Act, 1956, is hereby amended by the deletion of paragraph (b) of subsection (1).

Substitution of section 34 of Act 24 of 1956

26. The following section is hereby substituted for section 34 of the Pension Funds Act, 1956:

"Annual report by registrar,

34. The registrar shall annually submit to the Minister a report on his activities under this Act **and such report shall be laid by the Minister on the Tables of both Houses of Parliament within fourteen days after receipt thereof if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session**.".

Amendment of section 37A of Act 24 of 1956, as inserted by section 24 of Act 101 of 1976, substituted by section 12 of Act 94 of 1977 and amended by section 40 of Act 99 of l980

27. Section 37A of the Pension Funds Act, 1956, is hereby amended-

(a) by the deletion of the word "or" at the end of paragraph (b) of subsection (3); and

(b) by the addition of the word "or" at the end of paragraph (c) of subsection (3) and the addition to the said subsection of the following paragraph:

"*(d) which is owed to a fund in respect of arrear contributions*.".

Amendment of section 37C of Act 24 of 1956, as inserted by section 24 of Act 101 of 1976, substituted by section 41 of Act 99 of 1980 and amended by section 6 of Act 51 of 1988, section 21 of Act 54 of 1989 and section 29 of Act 83 of 1992

28. Section 37C of the Pension Funds Act, 1956, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"Notwithstanding anything to the contrary contained in any law or in the rules of a registered fund, any benefit payable by such a fund **in respect of a deceased member** *upon the death of a member*, shall, subject to a pledge in accordance with section l9(5)(b)(i) and subject to the provisions of sections 37A(3) and 37D, not form part of the assets in the estate of such a member, but shall be dealt with in the following

manner:".

Substitution of section 38 of Act 24 of 1956

29. The following section is hereby substituted for section 38 of the Pension Funds Act, 1956:

"Exemption from Act 57 of 1988

38. The Trust **Moneys Protection Act, 1934 (Act No. 34 of 1934)** *Property Control Act, 1988 (Act No. 57 of 1988)*, shall not apply to a fund registered under this Act.".

Substitution of certain expression in Act 24 of 1956

30. The Pension Funds Act, 1956, is hereby amended by the substitution for the word "Union", wherever it occurs in sections 2(2), 7(1) and 8(2), of the word "Republic".

Amendment of section 1 of Act 25 of 1956, as amended by section 25 of Act 101 of 1976 and section 29 of Act 97 of 1990

31. Section 1 of the Friendly Societies Act, 1956, is hereby amended-

(a) by the substitution in subsection (1) for the definition of "actuary" of the following definition:

"'actuary' means any Fellow *of the Institute of Actuaries of England or of the Faculty of Actuaries in Scotland or of the Society of Actuaries of America or* of **an** *any other* institute, faculty, society or chapter of actuaries approved by the Minister;";

(b) by the substitution in subsection (1) for the definition of "court" of the following definition:

" 'court' means a provincial or local division of the Supreme Court of South Africa **and includes the High Court of South-West Africa**;";

(c) by the deletion in subsection (1) of the definitions of "Gazette", "Territory" and "Union"; and

(d) by the substitution in subsection (1) for the definition of "market value" of the following definition:

" 'market value', in relation to any asset of a society, means the market value in the **Union** *Republic* or, if such value

cannot be ascertained, the price which would be obtained on a sale in the **Union** *Republic* between a willing seller and a willing purchaser as estimated by the society and approved by the registrar, or, where the registrar does not approve of any estimate made by a society, the value estimated by the registrar;".

Amendment of section 2 of Act 25 of 1956, as amended by section 31 of Act 43 of 1975 and section 19 of Act 103 of 1979

32. Section 2 of the Friendly Societies Act, 1956, is hereby amended-

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

"(g) the relief or maintenance of members, or any group of members, when unemployed or in distressed circumstances, otherwise than in consequence of the existence of a strike or lockout as defined in section 1 of the **Industrial Conciliation** *Labour Relations* Act, 1956 (Act No. 28 of 1956); "; and

(b) by the substitution for paragraph (i) of subsection (1) of the following paragraph:

" (i) such other business as the **Governor-General** *Minister* may by proclamation in the Gazette declare to be business in respect of which a friendly society may be established.".

Amendment of section 3 of Act 25 of 1956, as amended by section 20 of Act 103 of 1979, section 36 of Act 9 of 1989 and section 22 of Act 54 of 1989

33. Section 3 of the Friendly Societies Act, 1956, is hereby amended-

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

" (a) which has been established in terms of an agreement published or deemed to have been published under section 48 of the Labour Relations Act, 1956 (Act No. 28 of 1956), except that such society shall from time to time furnish the registrar with such statistical information as may be **prescribed** *requested* by the Minister;"; and

(b) by the substitution for paragraph (c) of subsection (2) of the following paragraph:

"(c) that the affairs of any friendly society which has so applied for registration, are subject to such a measure of control issuing

from any department of the State *or* any provincial administration **and the Administration of the Territory**, as to ensure that the society will as regards its financial strength and the conduct of its business conform to standards at least as high as those imposed under this Act in respect of registered societies (other than provisionally registered societies), he shall in writing exempt the society on such conditions as he may specify from the operation of the provisions of this Act.".

Amendment of section 11 of Act 25 of 1956, as amended by section 8 of Act 91 of 1972

34. Section 11 of the Friendly Societies Act, 1956, is hereby amended by the substitution in subsection (1) for the words preceding the proviso of the following words:

"Except where the accounts of a society are to be audited by the **Controller and** Auditor-General **or a Provincial Auditor** under the provisions of one or other law, every registered society shall in the manner prescribed by its rules appoint an auditor registered under the Public Accountants' and Auditors' Act, **1951** *1991 (Act No. 80 of 1991)*, who shall not be an officer of the society:".

Amendment of section 38 of Act 25 of 1956, as amended by section 25 of Act 103 of 1979

35. Section 38 of the Friendly Societies Act, 1956, is hereby amended by the deletion of paragraph (b) of subsection (1).

Substitution of section 45 of Act 25 of 1956

36. The following section is hereby substituted for section 45 of the Friendly Societies Act, 1956:

"Annual report by registrar

45. The registrar shall annually submit to the Minister a report on his activities under this Act **and such report shall be laid by the Minister on the Tables of both Houses of Parliament within fourteen days after receipt thereof if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session**.".

Substitution of section 49 of Act 25 of 1956

37. The following section is hereby substituted for section 49 of the Friendly Societies Act, 1956:

"Exemption from Act 57 of 1988

49. The Trust **Moneys Protection Act, 1934 (Act No. 34 of 1934)** *Property Control Act, 1988 (Act No. 57 of 1988),* shall not apply to a society registered under this Act.".

Substitution of certain expression in Act 25 of 1956

38. The Friendly Societies Act, 1956, is hereby amended by the substitution for the word "Union", wherever it occurs in sections 9(1),10(2),13 and 21(3), (4) and (6), of the word "Republic".

Amendment of section 1 of Act 54 of 1981, as amended by section 8 of Act 51 of 1988, section 29 of Act 97 of 1990 and section 5 of Act 54 of 1991

39. Section 1 of the Unit Trusts Control Act, 1981, is hereby amended-

(a) by the substitution for the definition of "compulsory charge" of the following definition:

" 'compulsory charge' means any fiscal charge *or such other charge as the registrar may determine by notice in the Gazette* in connection with the creation and issue of units and any necessary charge payable for the benefit of a person other than the management company concerned or its agents (not being members of a recognized stock exchange) in connection with the acquisition of the underlying securities included or to be included in a unit portfolio;";

(b) by the substitution for the definition of "fixed property company" of the following definition:

" 'fixed property company' means a company all the issued shares of which are included in a unit portfolio, and the principal business of which consists in the acquisition and holding of-

(a) urban immovable property, *or any undivided share therein*; or

(b) such other immovable property, *undivided share therein, or leasehold in respect thereof,* as the registrar may have approved;"; and

(c) by the substitution for the definition of "property shares" of the following definition:

" 'property shares' means securities in and of-

(a) a fixed property company; *or*

(b) a holding company which has no subsidiaries other than fixed property companies which are wholly owned subsidiaries as referred to in section 1(5) of the Companies Act, 1973 (Act No. 61 of 1973);".

Amendment of section 3 of Act 54 of 1981, as amended by section 10 of Act 51 of 1988

40. Section 3 of the Unit Trusts Control Act, 1981, is hereby amended by the substitution for the proviso to subsection (2) of the following proviso:

"Provided that the registrar may, in his discretion, and on such conditions as he may deem fit, exempt-

(i) any **registered** management company *registered as such before the commencement of section 15 of the Financial Institutions Amendment Act, 1988 (Act No. 51 of 1988)-*

(aa) from compliance with the requirements of paragraph (b) for such 2 a period, not exceeding six months, as he may determine;

(bb) from compliance with the requirements of paragraph (b) to the extent to which the said requirements exceed the requirements which applied in terms of that paragraph immediately prior to the commencement of the said section; and :

(ii) in the case of any other registered management company, such other management company, from compliance with the requirements of paragraph (b), for such period, not exceeding six months, as he may determine.".

Amendment of section 5 of Act 54 of 1981

41. Section 5 of the Unit Trusts Control Act, 1981, is hereby amended by the deletion of subsection (3).

Amendment of section 6 of Act 54 of 1981, as amended by section 7 of Act 54 of 1991

42. Section 6 of the Unit Trusts Control Act, 1981, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) shall sell or offer for sale any unit if the securities included in the unit portfolio to which the unit relates do not consist, to the extent of at least 95 per cent of market value, of-

(i) stock exchange securities;

(ii) subject to the provisions of paragraph (c), instruments contemplated in that paragraph; or **of**

(iii) securities (other than stock exchange securities) acquired by the management company pursuant to the exercise of rights attaching to any stock exchange securities included in the unit portfolio,

or any combination thereof; and".

Amendment of section 11 of Act 54 of 1981

43. Section 11 of the Unit Trusts Control Act, 1981, is hereby amended by the substitution for subsection (1) of the following subsection:

"*(1)(a) Every management company shall within 30 days from the date of appointment of a person as auditor of the management company, in accordance with the provisions of Chapter X of the Companies Act, 1973 (Act No. 61 of 1973), apply to the registrar for approval of such appointment or, in the case of an existing management company, within 30 days from the date of commencement of section 43 of the Financial Institutions Second Amendment Act, 1993, for confirmation of such appointment.*

(b) The registrar may, without assigning any reasons therefor-

(i) refuse an application under paragraph (a) for approval of the appointment of an auditor;

(ii) refuse an application under paragraph (a) for confirmation of the appointment of an auditor; or

(iii) withdraw any prior approval of the appointment of an auditor granted by the registrar under this section, and thereupon the auditor concerned shall vacate his office as auditor of the management company.

(c) If the registrar under subparagraph (i) of paragraph (b) refuses an application for approval of the appointment of an auditor or under subparagraph (ii) of that paragraph refuses an application for confirmation of the approval of the appointment of an auditor or under subparagraph (iii) of that paragraph withdraws an approval previously granted by him, the board of directors of the management company concerned shall appoint another person as auditor and the provisions of paragraph (a) shall apply

mutatis mutandis in respect of the last-mentioned appointment.

(d) A person appointed under paragraph (c) as an auditor of a management company shall for the purposes of Chapter X of the Companies Act, 1973, be deemed to have been so appointed as auditor at the immediately preceding annual general meeting of the management company.

(e) If an auditor who has been removed from his office as auditor of a management company by such management company, is of the opinion that he was removed for improper reasons, he shall forthwith inform the registrar by registered post thereof.".

Amendment of section 29 of Act 54 of 1981, as amended by section 15 of Act 51 of 1988

44. Section 29 of the Unit Trusts Control Act, 1981, is hereby amended by the substitution for the proviso to subsection (2) of the following proviso:

"Provided that the registrar may, in his discretion, and on such conditions as he may deem fit, exempt-

(i) any **registered** management company *registered as such before the commencement of section 15 of the Financial Institutions Amendment Act, 1988 (Act No. 51 of 1988)-*

(aa) from compliance with the requirements of paragraph (b) for such a period, not exceeding six months, as he may determine;

(bb) from compliance with the requirements of paragraph (b) to the extent to which the said requirements exceed the requirements which applied in terms of that paragraph immediately prior to the commencement of the said section; and

(ii) in the case of any other registered management company, such other management company, from compliance with the requirements of paragraph (b), for such period, not exceeding six months, as he may determine.".

Amendment of section 34 of Act 54 of 1981

45. Section 34 of the Unit Trusts Control Act, 1981, is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

"(a) introduce into or have in a unit portfolio shares in a fixed property company an asset of which is pledged, hypothecated or otherwise encumbered (other than by a praedial servitude *or leasehold approved by the registrar as contemplated in paragraph (b) of the definition of 'fixed property company' in section 1)* or which is liable under a guarantee to discharge the liabilities of any other person in the event of the failure of that person to do so; and".

Substitution of section 35 of Act 54 of 1981

46. The following section is hereby substituted for section 35 of the Unit Trusts Control Act, 1981:

"Listing of units by stock exchange

35. Every registered management company in property shares **which does not undertake to repurchase units issued by it from any holder thereof** shall apply for permission for **such** units to be dealt in on a licensed stock exchange and shall ensure that the requirements of such stock exchange for inclusion of the units in its list of the stocks and shares which may be dealt in on such exchange are complied with.".

Substitution of section 40 of Act 54 of 1981

47. The following section is hereby substituted for section 40 of the Unit Trusts Control Act, 1981:

"Exemption from Act 57 of 1988

40. The Trust **Moneys Protection Act, 1934 (Act No. 34 of 1934)** *Property Control Act, 1988 (Act No. 57 of 1988),* shall not apply in respect of a unit trust scheme operated in terms of this Act.".

Substitution of section 41 of Act 54 of 1981

48. The following section is hereby substituted for section 41 of the Unit Trusts Control Act, 1981:

"Annual report by registrar

41. The registrar shall once in every calendar year submit to the Minister a report concerning the activities of all registered management companies and, in general, concerning all matters relating to the promotion or management of unit trust or analogous schemes **and the Minister shall lay such report upon the Table of the House of Assembly within 14 days after the receipt thereof if Parliament is then in session, or if Parliament is not then in session, within 14 days after the commencement of its next ensuing ordinary session**.".

Substitution of section 45 of Act 54 of 1981, as inserted by section 8 of Act 45 of 1991

49. The following section is hereby substituted for section 45 of the Unit Trusts Control Act, 1981:

"Application of Act

45. Whenever the registrar deems it desirable in the public interest, he may, after consultation with the advisory committee, by notice in the Gazette exempt on such conditions and to such extent as he may deem fit any person or category of persons from any provision of section 6, 8, 10, 12, 17, 22(1)(h), **or** 33 *or 34(4)*, in so far as such provision does not already make provision for exemption, and may at any time in like manner revoke or amend such exemption.".

Amendment of section 6 of Act 55 of 1981

50. Section 6 of the Participation Bonds Act, 1981, is hereby amended by the substitution in subsection (6) for subparagraph (iii) of paragraph (b) of the following subparagraph:

"(iii) the registrar approves such transfer or cession: *Provided that if the purpose of the cession is to secure the repayment of a debt, the approval of the registrar shall not be required*.".

Amendment of section 12 of Act 55 of 1981

51. Section 12 of the Participation Bonds Act, 1981, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Every manager shall annually cause the registers and books of account of every scheme managed by it or him, including such registers and books of account as may be kept by the nominee company, to be audited by an auditor registered under the Public Accountants' and Auditors' Act, **1951 (Act No. 51 of 1951)** *1991 (Act No. 80 of 1991)*.".

Repeal of section 16 of Act 55 of 1981

52. Section 16 of the Participation Bonds Act, 1981, is hereby repealed.

Amendment of section 8 of Act 38 of 1984, as amended by section 26 of Act 57 of 1988, section 4 of Act 92 of 1988 and section 9 of Act 54 of l991

53. Section 8 of the Inspection of Financial Institutions Act, 1984, is hereby amended by the substitution for paragraph (c) of subsection (1) of

the following paragraph:

" (c) if the registrar has reason to believe that any person who acted in the capacity of auditor to a financial institution did not comply with the provisions of **subsection (3) of section 26** *section 20(5)* of the Public Accountants' and Auditors' Act, **1951 (Act No. 51 of 1951)** *1991 (Act. No. 80 of 1991)*, the registrar may send a copy of the report by an inspector who inspected the affairs of such institution as well as any other information with regard to the affairs of such financial institution obtained by him as a result of the application of this Act, to the *Public* Accountants' and Auditors' Board **established by** *referred to in* section 2 of the Public Accountants' and Auditors' Act, **1951** *1991*;".

Repeal of section 10 of Act 38 of 1984

54. Section 10 of the Inspection of Financial Institutions Act, 1984, is hereby repealed.

Repeal of section 10 of Act 39 of 1984

55. Section 10 of the Financial Institutions (Investment of Funds) Act, 1984, is hereby repealed.

Amendment of section 1 of Act 1 of 1985, as amended by section 14 of Act 50 of 1986, section 24 of Act 51 of 1988, section 25 of Act 54 of 1989, section 38 of Act 55 of 1989, section 13 of Act 64 of 1990, section 29 of Act 97 of 1990 and section 10 of Act 54 of 1991

56. Section 1 of the Stock Exchanges Control Act, 1985, is hereby amended by the deletion or the definitions of "Gazette", "Republic" and "Territory".

Amendment of section 4 of Act 1 of 1985

57. Section 4 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution for paragraph (e) of subsection (1) of the following paragraph:

" (e) an accountant or auditor registered in terms of the Public Accountants' and Auditors' Act, **1951 (Act No. 51 of 1951)** *1991 (Act No. 80 of 1991)*, as an accountant and auditor and engaged in public practice as such; or".

Amendment of section 7 of Act 1 of 1985, as amended by section 38 of Act 55 of 1989

58. Section 7 of the Stock Exchanges Control Act, 1985, is hereby

amended by the substitution for subsections (3) and (4) of the following subsections, respectively:

"(3) Upon receipt of an application relating to the issue of such a licence the Registrar shall cause to be published at the expense of the association, in the Gazette and in every province **and the Territory** once in each of three consecutive weeks in an English and an Afrikaans newspaper approved by the Registrar, a notice, in accordance with subsection (4), that the application has been received.

(4) The said notice shall state the name, address and occupation of every member of the association and the place in each province **and the Territory** where the rules of the association shall lie open for inspection by any member of the public, and shall call upon all interested persons who have any objections to the grant of the certificate, to lodge their objections with the Registrar within a period specified in the notice, not being less than 14 days from the date of the last publication thereof.".

Amendment of section 12 of Act 1 of 1985, as amended by section 29 of Act 51 of 1989 and section 38 of Act 55 of 1989

59. Section 12 of the Stock Exchanges Control Act, 1985, is hereby amended by the insertion after paragraph (e) of subsection (1) of the following paragraph:

"*(eA) that, notwithstanding anything else contained in this Act, provision may be made for the admission of a natural person or a corporate body to restricted membership of such a stock exchange, provided that such natural person or corporate body-*

(i) is a member of a financial exchange duly licensed in terms of the Financial Markets Control Act, 1989 (Act No. 55 of 1989), and meets such admission and capital adequacy requirements as the committee may, with the Registrar's consent, specify from time to time;

(ii) is restricted to buying or selling those securities specified from time to time by the committee in order to manage the risks arising from the creation of derivative financial instruments listed on a stock exchange or a financial market;

(iii) may-

(aa) act only as a principal with other members of a stock exchange in buying or selling the securities so specified; and

(bb) with the consent of the committee, trade only as a principal with other members of a stock exchange in options which are listed by such a stock exchange;

(iv) is a fit and proper person and, in the case of a corporate body, is managed and controlled by persons who are all fit and proper persons, and for the purposes of this paragraph 'derivative financial instruments' means any futures or option contracts as defined in section 1 of the said Financial Markets Control Act, 1989, which derive their intrinsic value from the securities which underlie such contracts, as well as any other instruments declared by the Registrar by notice in the Gazette to be derivative financial instruments;".

Amendment of section 31 of Act 1 of 1985

60. Section 31 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution for subsection (9) of the following subsection:

"(9) Before authorizing the return of such deposit the Registrar shall cause to be published at the expense of the depositor, in the Gazette and in every province **and in the Territory** once in each of three consecutive weeks in an English and an Afrikaans newspaper approved by the Registrar, a notice calling upon all persons who have claims against the depositor arising out of transactions entered into by him in respect of securities and who object against the return of the deposit in question to the depositor, to lodge their objections with the Registrar within a period specified in the notice, not being less than 30 days as from the date of the last publication thereof.".

Amendment of section 42 of Act 1 of 1985, as amended by section 20 of Act 54 of 1991

61. Section 42 of the Stock Exchanges Control Act, 1985, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Every stock-broker and carrier against shares shall appoint an auditor registered as an accountant and auditor under the Public Accountants' and Auditors' Act, **1951 (Act No. 51 of 1951)** *1991 (Act No. 80 of 1991)*, who engages in public practice as contemplated in that Act and who has no direct or indirect financial interest in the business carried on by such broker or carrier.".

Amendment of section 1 of Act 44 of 1988

62. Section 1 of the Friendly Societies Amendment Act, 1988, is hereby

amended by the deletion of paragraph (a).

Repeal of section 7 of Act 44 of 1988

63. Section 7 of the Friendly Societies Amendment Act, 1988, is hereby repealed.

Amendment of section 5 of Act 55 of 1989

64. Section 5 of the Financial Markets Control Act, 1989, is hereby amended by the substitution for paragraph (g) of subsection (1) of the following paragraph:

"(g) an accountant or auditor registered under the Public Accountants' and Auditors' Act, **1951 (Act No. 51 of 1951)** *1991 (Act No. 80 of 1991)*, as an accountant and auditor and engaged in public practice as such; or".

Amendment of section 17 of Act 55 of 1989, as amended by section 25 of Act 54 of 1991

65. Section 17 of the Financial Markets Control Act, 1989, is hereby amended-

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

" (e) for the exclusion of a body corporate as a member where a director of the body corporate, a person concerned in the management of the body corporate or a person who has **substantial** control of the body corporate, would be excluded as a member by virtue of the provisions of this Act;"; and

(b) by the substitution for paragraph (t) of subsection (1) of the following paragraph:

"(t) for the audit by an auditor registered under the Public Accountants' and Auditors' Act, **1951 (Act No. 51 of 1951)** *1991 (Act No. 80 of 1991)*, as an accountant and auditor and engaged in public practice as such, of the accounting records to be kept and furnished to the Registrar by a financial exchange and a member thereof under and in accordance with the regulations;".

Amendment of section 18 of Act 55 of 1989

66. Section 18 of the Financial Markets Control Act, 1989, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The board shall consist of an advocate of one of the divisions of the Supreme Court of the Republic of not less than 10 years standing, who shall be the chairman of the board, an accountant in public practice registered as an accountant and auditor under the Public Accountants' and Auditors' Act, **1951 (Act No. 51 of 1951)** *1991 (Act No. 80 of 1991)*, of not less than 10 years' standing, and a person appointed by virtue of his knowledge of financial markets in the Republic.".

Amendment of section 1 of Act 97 of 1990, as amended by section 1 of Act 41 of 1992

67. Section 1 of the Financial Services Board Act, 1990, is hereby amended by the addition of the following paragraph to the definition of "financial institution":

"*(h) any central securities depository and a depositary institution as defined in the Safe Deposit of Securities Act, 1992 (Act No. 85 of 1992)*;".

Amendment of section 5 of Act 97 of 1990

68. Section 5 of the Financial Services Board Act, 1990, is hereby amended by the substitution for paragraph (b) of the following paragraph:

" (b) if, in the opinion of the State President, he is actually engaged in the business of a financial institution or actually engaged in the rendering of a financial service: *Provided that the State President may, in consultation with the recognized association or organization of the relevant financial institution or financial service in which such person is actually engaged, appoint a person who would otherwise be disqualified in terms of this paragraph from being a member of the board*;".

Amendment of section 21 of Act 97 of 1990

69. Section 21 of the Financial Services Board Act, 1990, is hereby amended-

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

"(1) *(a)* The Board shall each year submit to the Minister a report on its affairs and functions during the year ended on 31 December last preceding **which shall, inter alia, include the Following**.

(b) The report referred to in paragraph (a) shall inter alia include the following in respect of the financial year referred to in section 17 ending during the year following the year on which a report is being submitted:

(a) *(i)* An audited balance sheet, including any notes thereon or document annexed thereto providing information required by this Act;

(b) *(ii)* an audited income statement, including any similar financial statement, where such form is appropriate, and including any notes thereon or document annexed thereto providing information required by this Act; and

(c)*(iii)* an audited statement of the source and application of funds.", and

(b) by the substitution for the words preceding paragraph (a) of subsection (2) of the following words:

"The financial statements referred to in subsection (1)**(a)**(b) **and (c)** shall-".

Amendment of section 1 of Act 85 of 1992

70. Section 1 of the Safe Deposit of Securities Act, 1992, is hereby amended by the substitution for the definition of "regulation" of the following definition:

" 'regulation' means a regulation made under section **15** *14*;".

Amendment of section 9 of Act 85 of 1992

71. Section 9 of the Safe Deposit of Securities Act, 1992, is hereby amended-

(a) by the substitution for paragraph (a) of subsection (3) of the following paragraph:

"(a) shall be made in the prescribed manner and on the prescribed form, *and shall be accompanied by the prescribed fee*;"; and

(b) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:

"The Registrar shall not grant an application under this section for the registration of a central securities depository unless *the prescribed fee has been paid and* he is satisfied-".

Amendment of section 12 of Act 85 of 1992

72. Section 12 of the Safe Deposit of Securities Act, 1992, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) No addition to, amendment of or deletion from the rules of a central securities depository or the said list of members shall be valid until it has been approved by the Registrar *against payment of the prescribed fee*.".

Amendment of section 14 of Act 85 of 1992

73. Section 14 of the Safe Deposit of Securities Act, 1992, is hereby amended-

(a) by the deletion of the word "and" at the end of paragraph (b) and the insertion after the said paragraph of the following paragraph:

"*(bA) matters in addition to those contemplated in any other provision of this Act in respect of which fees shall be payable, the fee payable in respect of each such matter, and, in relation to such fees as well as fees payable under any such other provision of this Act, the persons by whom the fees shall be payable, the manner of payment thereof and, where it is deemed necessary, the payment of interest in respect of overdue fees; and*"; and

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

"*(2) Fees which are in terms of or by virtue of a provision of this Act payable, and interest so payable in respect of overdue fees, shall be a debt due to the Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the Registrar by action in any competent court.*".

Short title and commencement

74. (1) This Act shall be called the Financial Institutions Second Amendment Act, 1993, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the Gazette.

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