

STATE PRESIDENT'S OFFICE

No. 370  
10 March 1993

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

NO. 10 OF 1993: SOUTH AFRICAN RESERVE BANK 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 South African Reserve Bank Act, 1989, so as to define a certain expression and to delete certain definitions; and to provide for the maintenance by banks of minimum reserve balances in accounts with the South African Reserve Bank; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.  
(Assented to 26 February 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 90 of 1989

1. Section 1 of the South African Reserve Bank Act, 1989 (hereinafter referred to as the principal Act), is hereby amended-

(a) by the insertion, after the definition of "Bank", of the following definition:

" *'bank'* means a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), and, for the purposes of section 10A, includes a permanent mutual building society referred to in section 4(2)(a) of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965);";

(b) by the deletion of the definition of "banking institution"

(c) by the deletion of the definition of "building society"; and

(d) by the insertion, after the definition of "mutual building society", of the following definition:

" *'prescribed'* means prescribed by regulation;".

Amendment of section 4 of Act 90 of 1989

2. Section 4 of the principal Act is hereby amended-

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

"(b) No person who is a director, officer or employee of a **banking institution bank** or mutual building society **or building society** shall be appointed as or remain Governor or Deputy Governor."; and

(b) by the substitution for paragraph (b) of subsection (4) of the following paragraph:

" (b) if he is a director, officer or employee of a **banking institution bank** or mutual building society **or building society**; or".

Amendment of section 10 of Act 90 of 1989

3. Section 10 of the principal Act is hereby amended by the substitution for paragraph (v) of subsection (1) of the following paragraph:

"(v) perform the functions assigned to the Bank by the Banks Act, **1965 (Act No. 23 of 1965)** 1990 (Act No. 94 of 1990), and the Mutual Building Societies Act, 1965 (Act No. 24 of 1965) **and the Building Societies Act, 1986 (Act No. 82 of 1986)**".

Insertion of section 10A in Act 90 of 1989

4. The following section is hereby inserted in the principal Act after section 10:

"Maintenance by banks of minimum reserve balances in accounts with Bank

*10A. (1) Subject to the provisions of subsection (3), a bank shall maintain an account with the Bank into which account that bank 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 bank, together with the average daily amount of that bank's Reserve Bank notes and subsidiary coin calculated according to the total amounts of those assets held by the bank on all the days of the latest month in respect of which it furnished a return in terms of subsection (11) to the Registrar of Banks designated under section 4 of the Banks Act, 1990 (Act No. 94 of 1990), may at no time during any month amount to less than an amount equal to the sum of amounts representing the percentages, determined in accordance with the provisions of subsection (4) by the Governor, of the amounts of such different categories of the bank's liabilities as may be specified by the Governor by notice in the Gazette with reference to the time when such liabilities fall due or with reference to any other aspect pertaining to such liabilities.*

*(3) (a) A bank shall, when required to do so by virtue of a determination contemplated in paragraph (b), in addition to the account referred to in subsection (1) maintain an account with the Bank (hereinafter in this subsection referred to as a special deposit account) into which account that bank shall from time to time deposit at least such amounts as may be necessary to comply with the requirements of paragraph (b).*

*(b) For the purposes of the maintenance by a bank of a credit balance in a special deposit account referred to in paragraph (a), the Governor may from time to time determine further percentages, in*

addition to percentages determined by him in terms of subsection (2), of the bank's liabilities as contemplated in subsection (2).

(c) When making a determination in terms of paragraph (b), the Governor may at his discretion direct that interest at a rate determined by him shall be payable to a bank on the daily credit balances in a special deposit account maintained by such bank in terms of paragraph (a): Provided that the provisions of this paragraph shall not derogate from the power conferred by section 10(1)(e) upon the Bank to allow interest on any deposit or on a portion of a deposit.

(4) (a) The percentages determined by the Governor in terms of subsection (2) or (3)(b) shall be such percentages as the Governor may, having regard to the national economic interest, deem desirable to determine from time to time.

(b) Whenever the Governor has made a determination under paragraph (a), he shall in writing inform the Registrar of Banks referred to in subsection (2) of such a determination, and the said Registrar shall as soon as is practicable give written notice of the determination to every bank 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 published in the Gazette in terms of paragraph (b).

(5) A bank's liabilities referred to in subsection (2) shall be calculated in such manner and determined at such times as may be determined by the Governor by notice in the Gazette.

(6) Any person who contravenes or fails to comply with a provision of subsection (1), (2), (3)(a) or (5) shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding six months.

(7) If a bank fails to comply with a provision of this section, or is unable to comply with any such provision, it shall forthwith in writing report its failure or inability to the Governor, stating the reasons for such failure or inability.

(8) The Governor may summarily bring a charge in terms of subsection (6) against a bank referred to in subsection (7) or, if in the circumstances he deems it fit to do so, condone the failure or inability and afford the bank concerned an opportunity, subject to such conditions as the Governor may determine, to comply with the relevant provision within a specified period.

(9) Irrespective of whether criminal proceedings in terms of subsection (6) have been or may be instituted against a bank in respect of any failure or inability referred to in subsection (7), the Governor may, subject to any condonation granted under subsection (8), by way of a written notice impose upon that bank, in respect of such failure or inability, a fine not exceeding one-tenth of one per cent of the amount of the shortfall for each day on which such failure or inability continues.

(10) A fine imposed under subsection (9) shall be paid to the Governor within such period as may be specified in the relevant notice, and if the bank concerned fails to pay the fine within the specified period, the Governor may by way of civil action in a competent court recover from that bank the amount of the fine or any portion thereof which he may in the circumstances consider justified.

(11) A bank shall, in order to enable the Governor to determine whether the bank is complying with the provisions of this section, furnish the Registrar of Banks referred to in subsection (2), subject to the provisions of subsection (12), with a return on the prescribed form and in respect of the prescribed period.

(12) A return referred to in subsection (11) shall be prepared in conformity with generally accepted accounting practice and shall be furnished to the Registrar of Banks referred to in subsection (2) not later than the fifteenth business day following upon the last business day of the period to which the return relates."

Amendment of section 11 of Act 90 of 1989

5. Section 11 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Bank may appoint inspectors (in either a permanent or a temporary capacity) to carry out inspections of the affairs, or of any part thereof, of a **banking institution bank** as defined in the Banks Act, 1965 (Act No. 23 of 1965) 1990 (Act No. 94 of 1990), or a mutual building society as defined in the Mutual Building Societies Act, 1965 (Act No. 24 of 1965) **and a building society as defined in the Building Societies Act, 1986 (Act No. 82 of 1986).**"

Substitution of section 12 of Act 90 of 1989

6. The following section is hereby substituted for section 12 of the principal Act:

"Inspection of affairs of person, partnership, close corporation, company or other juristic person not registered as bank or mutual building society

12. (1) If the Governor or a Deputy Governor has reason to suspect that any person, partnership, close corporation, company or other juristic person who or which is not registered in terms of the Banks Act, 1965 (Act No. 23 of 1965) 1990 (Act No. 94 of 1990), as a **banking institution bank** or in terms of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), as a mutual building society **or in terms of the Building Societies Act, 1986 (Act No. 82 of 1986), as a building society**, is carrying on the business of a **banking institution bank** or a mutual building society **or a building society**, he may

(a) if it is so suspected that the business of a **banking institution is being carried on** direct the Registrar of Banks referred to in section 3 4 of the Banks Act, 1965 1990, or

(b) if it is so suspected that the business of a **mutual building society or a building society is being carried on**, direct the Registrar of Building Societies referred to in section 5 of the Building Societies Act, 1986

to cause the affairs or any part of the affairs of such person, partnership, close corporation, company or other juristic person to be inspected by an inspector appointed under section 11(1), in order to establish whether or not the business of a **banking institution bank** or mutual building society **or building society**, as the case may be, is being carried on by that person, partnership, close corporation, company or other juristic person.

(2) The provisions of sections 4, 5, 8 and 9 of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984), shall apply mutatis mutandis in respect of an inspection carried out in terms of subsection (1).".

Amendment of section 13 of Act 90 of 1989

7. Section 13 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

"(b) without the consent of the Minister, purchase the shares of any **banking institution or building society** bank or grant loans or advances upon the security thereof;".

Amendment of section 36 of Act 90 of 1989

8. Section 36 of the principal Act is hereby amended-

(a) by the deletion of the word "and" at the end of paragraph (d); and

(b) by the insertion of the following paragraph after paragraph (d):

*"(dA) any matter which is required or permitted to be prescribed by regulation under this Act;".*

Short title and commencement

9. This Act shall be called the South African Reserve Bank Amendment Act, 1993, and shall come into operation on the date of commencement of the Deposit-taking Institutions Amendment Act, 1993.