



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 524.

24 Maart 1982.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 50 van 1982: Wysigingswet op Bourekenaars, 1982.

No. 524.

24 March 1982.

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

No. 50 of 1982: Quantity Surveyors' Amendment Act, 1982.

Wet No. 50, 1982

WYSIGINGSWET OP BOUREKENAARS, 1982

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.
- _____** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Bourekenaars, 1970, met betrekking tot omskrywings; ten einde die algemene bevoegdhede van die Suid-Afrikaanse Raad vir Bourekenaars met betrekking tot die uitreiking van afskrifte van sekere dokumente uit te brei; die tertafellegging van verslae van gemelde Raad verder te reël; die vereistes vir registrasie van bourekenaars en bourekenaars-in-opleiding verder te reël, en die voorsiening vir tydelike registrasie te skrap; sekere strawwe te verhoog; die beoefening van die bourekenaarsprofessie deur 'n maatskappy te reël; die bepalinge betreffende onbehoorlike gedrag deur bourekenaars uit te brei; die wyse van die bestelling van dagvaardings deur die Raad met betrekking tot dissiplinêre ondersoeke te verander; sekere teksveranderinge aan te bring; en 'n sekere ampsbenaming te vervang; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 5 Maart 1982.)

DAAR WORD BEPAAL deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van
artikel 1 van
Wet 36 van 1970,
soos gewysig deur
artikel 1 van
Wet 79 van 1979.

1. Artikel 1 van die Wet op Bourekenaars, 1970 (hieronder die Hoofwet genoem), word hierby gewysig—
 - (a) deur die omskrywing van „departement” deur die volgende omskrywing te vervang: 5
„departement” die Departement van **[Openbare Werke]** Gemeenskapsontwikkeling;”;
 - (b) deur na die omskrywing van „departement” die volgende omskrywing in te voeg: 10
„Direkteur-generaal” die Direkteur-generaal: Gemeenskapsontwikkeling;”;
 - (c) deur die omskrywing van „Minister” deur die volgende omskrywing te vervang: 15
„Minister” die Minister van **[Openbare Werke]** Gemeenskapsontwikkeling;” en
 - (d) deur die omskrywing van „Sekrêtaris” te skrap.
2. Artikel 7 van die Hoofwet word hierby gewysig—
 - (a) deur paragraaf (fB) van subartikel (1) deur die volgende paragraaf te vervang: 20
„(fB) om die gelde te bepaal wat aan die raad betaalbaar is ten opsigte van 'n in artikel 19 (2) (b) **[of (7) (c) (ii)]** bedoelde eksamen (of gedeelte daarvan) wat deur of namens die raad afgeneem word;” en
 - (b) deur die volgende paragraaf na paragraaf (i) van subartikel (1) in te voeg: 25
„(iA) om, onderworpe aan die voorwaardes (as daar is) en die betaling van die gelde wat die raad voorskryf, 'n afskrif van 'n inskrywing in die register of van 'n dokument deur die registrateur bewaar, of 30

Wysiging van
artikel 7 van
Wet 36 van 1970,
soos gewysig deur
artikel 6 van
Wet 79 van 1979.

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GENERAL EXPLANATORY NOTE:

- I** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Quantity Surveyors' Act, 1970, relating to definitions; so as to extend the general powers of the South African Council for Quantity Surveyors relating to the issuing of copies of certain documents; to further regulate the tabling of reports of the said Council; to further regulate the requirements for registration of quantity surveyors and quantity surveyors in training, and to delete the provision for temporary registration; to increase certain penalties; to regulate the carrying on of the profession of quantity surveyor by a company; to extend the provisions relating to improper conduct by quantity surveyors; to alter the manner of service by the Council of summonses in disciplinary proceedings; to effect certain textual alterations; and to replace a certain official title; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 5 March 1982.)

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 1 of the Quantity Surveyors' Act, 1970 (hereinafter referred to as the principal Act), is hereby amended—
 - 5 (a) by the substitution for the definition of "department" of the following definition:

"'department' means the Department of **[Public Works]** Community Development;";
 - 10 (b) by the insertion before the definition of "Education Advisory Committee" of the following definition:

"'Director-General' means the Director-General: Community Development;";
 - 15 (c) by the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of **[Public Works]** Community Development;"; and
 - (d) by the deletion of the definition of "Secretary".
2. Section 7 of the principal Act is hereby amended—
 - 20 (a) by the substitution for paragraph (fB) of subsection (1) of the following paragraph:

"(fB) to determine the fees which shall be payable to the council in respect of any examination (or part thereof) referred to in section 19 (2) (b) **[or (7) (c) (ii)]**, conducted by or on behalf of the council;";
 - 25 (b) by the insertion after paragraph (i) of subsection (1) of the following paragraph:

"(iA) to issue, subject to the conditions (if any) and the payment of such fees as the council may prescribe, a copy of an entry in the register or of a document
 - 30

Amendment of section 1 of Act 36 of 1970, as amended by section 1 of Act 79 of 1979.

Amendment of section 7 of Act 36 of 1970, as amended by section 6 of Act 79 of 1979.

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'n uittreksel uit die register of uit so 'n dokument wat deur die registrateur gesertifiseer is, of 'n afskrif van enige registrasiesertifikaat, aan enigiemand op aansoek deur so 'n persoon, uit te reik;"

Wysiging van artikel 10 van Wet 36 van 1970, soos gewysig deur artikel 7 van Wet 79 van 1979.

3. Artikel 10 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

„(4) Die Minister moet afskrifte van elke verslag wat in-gevolge subartikel (1) aan hom voorgelê word, tesame met die aanhangsels daarby, **[in die Senaat en]** in die Volksraad ter Tafel lê binne veertien dae na ontvangs daarvan as die Parlement dan in gewone sessie is, of, as die Parlement nie dan in gewone sessie is nie, binne veertien dae na die aanvang van sy eersvolgende gewone sessie.”

Wysiging van artikel 18 van Wet 36 van 1970, soos gewysig deur artikel 9 van Wet 79 van 1979.

4. Artikel 18 van die Hoofwet word hierby gewysig deur die uitdrukking „19 (7) (c) (ii)”, waar dit ook al voorkom, te skrap.

Wysiging van artikel 19 van Wet 36 van 1970, soos gewysig deur artikel 10 van Wet 79 van 1979.

5. Artikel 19 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

„(a) minstens een-en-twintig jaar oud is **[en gewoonlik in die Republiek woonagtig is];** en”;

(b) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

„(a) Indien die raad na oorweging van so 'n aansoek daarvan oortuig is dat die applikant **[gewoonlik in die Republiek woonagtig is en]** aan die in subartikel (2) (b) en, tensy die applikant deur die Minister kragtens subartikel (3) vrystelling verleen is, in subartikel (2) (d) vermelde vereistes voldoen, maar nie aan die in subartikel (2) (c) en (cA) vermelde vereistes nie, moet die raad die applikant as 'n bourekenaar-in-opleiding registreer en aan hom 'n registrasiesertifikaat te dien effekte in die voorgeskrewe vorm uitreik.”;

(c) deur subartikel (7) te skrap;

(d) deur paragraaf (a) van subartikel (10) te skrap; en

(e) deur subartikel (12) deur die volgende subartikel te vervang:

„(12) Behoudens die bepalings van subartikel (8), moet die raad op aansoek by hom iemand wat voorheen ingevolge subartikel (2) as 'n bourekenaar of ingevolge subartikel (4) as 'n bourekenaar-in-opleiding geregistreer was, as 'n bourekenaar of 'n bourekenaar-in-opleiding, na gelang van die geval, registreer indien hy die voorgeskrewe registrasiegeld en enige agterstalige jaargeld of gedeelte daarvan kragtens artikel 7 (1) (g) voorgeskryf, betaal het **[en die voorgeskrewe woonkwalifikasies besit].**”.

Vervanging van artikel 20 van Wet 36 van 1970, soos vervang deur artikel 11 van Wet 79 van 1979.

6. Artikel 20 van die Hoofwet word hierby deur die volgende artikel vervang:

„Eksamen beoog deur artikel 19 (2) (b) moet by regulasie voorgeskryf word.

20. Die voorgeskrewe **[eksamens]** eksamen wat deur artikel 19 (2) (b) **[of (7) (c) (ii)]** beoog word, is die **[eksamens]** eksamen wat deur die Minister by regulasie voorgeskryf word.”.

Wysiging van artikel 22 van Wet 36 van 1970, soos gewysig deur artikel 12 van Wet 79 van 1979.

7. Artikel 22 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) al die woorde wat volg op paragraaf (b) deur die volgende woorde te vervang:

„is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens **[duisend]** tienduysend rand.”; en

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in the custody of the registrar, or an extract from the register or from any such document certified by the registrar, or a copy of any registration certificate, to any person applying therefor;”.

- 5 3. Section 10 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:
- 10 “(4) The Minister shall lay copies of every report submitted to him in terms of subsection (1), together with the annexures thereto, upon the Table **[in the Senate and]** in the House of Assembly 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.”.
- 15 4. Section 18 of the principal Act is hereby amended by the deletion, wherever it occurs, of the expression “19 (7) (c) (ii)”.
- 20 5. Section 19 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- 25 “(a) is not less than twenty-one years of age **[and is ordinarily resident in the Republic];** and”;
- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
- 30 “(a) If after consideration of any such application the council is satisfied that the applicant **[is ordinarily resident in the Republic and]** complies with the requirements mentioned in subsection 2 (b) and, unless the applicant has been granted exemption by the Minister under subsection (3), in subsection 2 (d), but not with the requirements mentioned in subsection 2 (c) and (cA), the council shall register the applicant as a quantity surveyor in training and issue to him a certificate of registration to that effect in the prescribed form.”;
- 35 (c) by the deletion of subsection (7);
- (d) by the deletion of paragraph (a) of subsection (10); and
- (e) by the substitution for subsection (12) of the following subsection:
- 40 “(12) Subject to the provisions of subsection (8), the council shall on application to it register as a quantity surveyor or as a quantity surveyor in training any person who was previously registered as a quantity surveyor in terms of subsection (2) or as a quantity surveyor in training in terms of subsection (4), as the case may be, if he has paid the prescribed registration fee and any arrear annual fee or portion thereof prescribed under section 7 (1) (g) **[and possesses the prescribed residential qualifications].**”.
- 45 6. The following section is hereby substituted for section 20 of the principal Act:
- 50 **20. The prescribed [examinations] examination contemplated by section 19 (2) (b) [or (7) (c) (ii)] shall be the [examinations] examination prescribed by the Minister by regulation.**
- “Examination contemplated by section 19 (2) (b) to be prescribed by regulation.”
- 55 7. Section 22 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for all the words following on paragraph (b) of the following words:
- 60 “shall be guilty of an offence and liable on conviction to a fine not exceeding **[one] ten** thousand rand.”; and

Amendment of section 10 of Act 36 of 1970, as amended by section 7 of Act 79 of 1979.

Amendment of section 18 of Act 36 of 1970, as amended by section 9 of Act 79 of 1979.

Amendment of section 19 of Act 36 of 1970, as amended by section 10 of Act 79 of 1979.

Substitution of section 20 of Act 36 of 1970, as substituted by section 11 of Act 79 of 1979.

Amendment of section 22 of Act 36 of 1970, as amended by section 12 of Act 79 of 1979.

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(b) deur subartikel (1A) deur die volgende subartikel te vervang:

„(1A) Behoudens 'n vrystelling kragtens hierdie Wet is 'n ander maatskappy as 'n maatskappy in artikel 22A bedoel, of 'n ander regspersoon wat—

(a) teen vergoeding vir iemand anders, hetsy 'n natuurlike persoon of 'n regspersoon, enige soort werk wat kragtens artikel 7 (3) (c) vir bourekenners voorbehou is, doen of deur enige persoon, hetsy as 'n bourekenaar geregistreer of nie, laat doen; of

(b) homself voordoen as of hom op enige wyse hoegenaamd uitgee of toelaat dat hy uitgegee word vir 'n maatskappy of 'n ander regspersoon wat enige soort werk doen wat kragtens artikel 7 (3) (c) vir bourekenners voorbehou is, of enige naam, titel, beskrywing of simbool gebruik wat aandui of daarop bereken is om die indruk by persone te wek dat hy 'n maatskappy of 'n ander regspersoon is wat enige soort werk doen wat aldus vir bourekenners voorbehou is,

aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens **[duisend]** tienduizend rand.”

Invoeging van artikel 22A in Wet 36 van 1970.

8. Die volgende artikel word hierby in die Hoofwet na artikel 22 ingevoeg:

„Beoefening van bourekennersprofessie deur 'n maatskappy, en bykomstige aangeleentheid.

22A. (1) Ondanks andersluidende bepalings van hierdie Wet, kan 'n maatskappy die werk van 'n bourekenaar in private professionele raadgewende praktyk verrig, indien—

- (a) die maatskappy as 'n private maatskappy met 'n aandeelkapitaal, kragtens die Maatskappyywet, 1973 (Wet No. 61 van 1973), ingelyf en geregistreer is, en sy akte van oprigting bepaal—
- (i) dat die direkteure en gewese direkteure gesamentlik en afsonderlik, tesame met die maatskappy, aanspreeklik is vir die skulde en laste van die maatskappy wat gedurende hul ampstermyne aangegaan word of is;
- (ii) dat die hoofdoelstelling van die maatskappy is om die werk van 'n bourekenaar in private professionele raadgewende praktyk, of sodanige werk asook werk wat tuis behoort by die professie van argitek of professionele ingenieur of albei, te verrig; en
- (b) die statute van die maatskappy bepaal—
- (i) dat, behoudens die bepalings van subartikel (2), slegs natuurlike persone wat geregistreerde bourekenners is, lede en aandeelhouders van dié maatskappy mag wees;
- (ii) dat slegs 'n aandeelhouer van die maatskappy 'n direkteur daarvan is, en dat minstens een direkteur 'n geregistreerde bourekenaar is;
- (iii) dat elke aandeelhouer die bevoordeelde is van dié aandeel wat op sy naam geregistreer is;
- (iv) dat 'n aandeelhouer geen aandeel, en geen regte of voordele verbonde aan 'n aandeel, aan enige ander persoon as iemand bedoel in subparagraaf (i), gelees met subartikel (2), kan oordra nie;
- (v) dat die direkteure van die maatskappy gesamentlik minstens 70% van die uitgereikte aandeel moet besit;
- (vi) dat indien 'n aandeelhouer van die maatskappy te sterwe kom, of om die een of ander rede ophou om aan 'n vereiste van sub-

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- (b) by the substitution for subsection (1A) of the following subsection:

"(1A) Subject to any exemption granted under this Act, any company other than a company referred to in section 22A, or any other juristic person which—

(a) for reward performs or causes to be performed for any other person, whether a natural or juristic person, by any person, whether registered as a quantity surveyor or not, any kind of work reserved for quantity surveyors under section 7 (3) (c); or

(b) pretends to be or by any means whatsoever holds itself out or allows itself to be held out as a company or any other juristic person performing any kind of work reserved for quantity surveyors under section 7 (3) (c), or uses any name, title, description or symbol indicating or calculated to lead persons to infer that it is a company or any other juristic person performing any kind of work so reserved for quantity surveyors,

shall be guilty of an offence and liable on conviction to a fine not exceeding **[one]** ten thousand rand."

8. The following section is hereby inserted in the principal Act after section 22:

Insertion of section 22A in Act 36 of 1970.

22A. (1) Notwithstanding any provision of this Act to the contrary a company may perform the work of a quantity surveyor in private professional consulting practice, if—

(a) the company has been incorporated and registered as a private company, with share capital, under the Companies Act, 1973 (Act No. 61 of 1973), and its memorandum of association provides—

(i) that the directors and past directors shall be liable jointly and severally, together with the company, for such debts and liabilities of the company as are or were contracted during their periods of office;

(ii) that the main object of the company shall be to perform the work of a quantity surveyor in private professional consulting practice, or such work and also work pertaining to the profession of architect or the profession of professional engineer or both; and

(b) the articles of the company provide—

(i) that, subject to the provisions of subsection (2), only natural persons who are registered quantity surveyors may be members and shareholders of the company;

(ii) that only a shareholder of the company may be a director thereof, and that at least one director must be a registered quantity surveyor;

(iii) that every shareholder shall be the beneficiary of the shares registered in his name;

(iv) that a shareholder may not transfer any share, or any rights or benefits attaching to a share, to any person other than a person referred to in subparagraph (i), read with subsection (2);

(v) that the directors of the company shall jointly hold at least 70% of the issued shares;

(vi) that in the event of a shareholder's death or of his ceasing to comply with a requirement of subparagraph (i), read with subsection

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paragraaf (i), gelees met subartikel (2), te voldoen, sy boedel of hyself, na gelang van die geval, sy aandeel in die maatskappy vanaf die betrokke datum kan bly behou vir 'n tydperk van ses maande of vir 'n langer tydperk deur die raad goedgekeur, en dat gedurende so 'n tydperk enige stemreg verbonde aan sodanige aandeel uitgeoefen word deur 'n ander aandeelhouer van die maatskappy wat eersbedoelde aandeelhouer voor sy dood of diskwalifikasie skriftelik vir die doeleindes van hierdie subparagraaf genomineer het of, by ontstentenis van so 'n nominasie, deur die voorsitter van die maatskappy.

(2) Die statute van 'n maatskappy bedoel in hierdie artikel kan, ondanks subartikel (1) (b) (i), bepaal dat die lede en aandeelhouders van die maatskappy ook een of meer van die volgende persone kan wees:

- (a) Behoudens die wetsbepalings betreffende die beoefening van die argiteksprofessie, 'n argitek geregistreer kragtens die Wet op Argitekte, 1970 (Wet No. 35 van 1970);
 - (b) behoudens die wetsbepalings betreffende die beoefening van die professionele ingenieursprofessie, 'n professionele ingenieur geregistreer kragtens die Wet op Professionele Ingenieurs, 1968 (Wet No. 81 van 1968);
 - (c) 'n maatskappy wat aan die vereistes van hierdie artikel voldoen, en waarvan minstens een aandeelhouer en een direkteur geregistreerde bourekkenaars is;
 - (d) enige ander persoon wat die raad skriftelik goedgekeur het.
- (3) (a) Die houer van 'n aandeel in subartikel (1) (b) (vi) bedoel, kan nie as direkteur van die betrokke maatskappy optree, of regstreeks of onregstreeks enige direkteursgelde of -vergoeding ten opsigte van daardie maatskappy ontvang nie.
- (b) Sodanige aandeel as wat nie ooreenkomstig die statute van die maatskappy binne die tydperk in subartikel (1) (b) (vi) bedoel aan iemand beoog in subartikel (1) (b) (i), gelees met subartikel (2), oorgedra is nie, kan, ondanks andersluidende bepalings van die een of ander wet, deur die maatskappy self aangekoop word, mits—
- (i) die koopprys van daardie aandeel, met inbegrip van enige premie, as daar is, op daardie aandeel, betaal word uit winste wat andersins vir betaling van dividende beskikbaar sou gewees het; en
 - (ii) 'n bedrag gelyk aan die nominale bedrag van die aandeel wat aangekoop is, op 'n kapitaalaflossingsreserwefonds oorgedra word.
- (c) Die aankoop ooreenkomstig die bepalings van paragraaf (b) deur die maatskappy self van aandeel bedoel in daardie paragraaf word nie geag 'n vermindering van die gemagtigde aandeelkapitaal van die betrokke maatskappy uit te maak nie, en die bepalings van genoemde Maatskappywet, 1973, met betrekking tot die vermindering van die aandeelkapitaal van 'n maatskappy is van toepassing ten opsigte van so 'n kapitaalaflossingsreserwefonds asof so 'n fonds aandeelkapitaal van die betrokke maatskappy is.
- (d) Aandeel wat soos beoog in paragraaf (b) gekoop

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- (2), his estate or he himself, as the case may be, may continue to hold his shares in the company as from the relevant date for a period of six months or for such longer period as may have been approved of by the council, and that during such period any voting rights attaching to such shares may be exercised by any other shareholder of the company whom the first-mentioned shareholder may have nominated in writing before his death or disqualification for the purposes of this subparagraph or, failing such nomination, by the chairman of the company.
- (2) The articles of a company referred to in this section may provide that, notwithstanding subsection (1) (b) (i), the members and shareholders of a company may also be any one or more of the following persons:
- (a) Subject to the legal provisions relating to the carrying on of the profession of architect, an architect registered under the Architects' Act, 1970 (Act No. 35 of 1970);
 - (b) subject to the legal provisions relating to the carrying on of the profession of professional engineer, a professional engineer registered under the Professional Engineers' Act, 1968 (Act No. 81 of 1968);
 - (c) a company complying with the requirements of this section, of which at least one shareholder and one director are registered quantity surveyors;
 - (d) any other person approved by the council in writing.
- (3) (a) The holder of a share referred to in subsection (1) (b) (vi) may not act as a director of the company concerned, or directly or indirectly receive any director's fees or remuneration in respect of that company.
- (b) Such shares as are not in accordance with the company's articles transferred within the period referred to in subsection (1) (b) (vi) to any person referred to in subsection (1) (b) (i), read with subsection (2), may, notwithstanding anything to the contrary contained in any law, be acquired by the company itself, provided—
- (i) the purchase price for those shares, including any premium, if any, on those shares, is paid out of profits which otherwise would have been available for payment of dividends; and
 - (ii) an amount equal to the nominal amount of the shares acquired is transferred to a capital redemption reserve fund.
- (c) The acquisition in accordance with the provisions of paragraph (b) by the company itself of shares referred to in that paragraph shall not be deemed to constitute a reduction of the authorized share capital of the company concerned, and the provisions of the said Companies Act, 1973, relating to the reduction of the share capital of a company shall apply to such a capital redemption revenue fund as if such fund were share capital of the company concerned.
- (d) Shares purchased as contemplated in paragraph

is, is beskikbaar vir toekenning ooreenkomstig die statute van die maatskappy.

- (e) 'n Oordrag van aandele in 'n maatskappy in hierdie artikel bedoel, of van enige regte of voordele daaraan verbonde, wat strydig is met subartikel (1) (b) (iv), is nietig. 5

(4) Behoudens die bepalings van artikel 49 (4) van genoemde Maatskappywet, 1973, bestaan die naam van 'n maatskappy in hierdie artikel bedoel slegs, tensy die raad in enige bepaalde geval toestemming tot 'n ander naam gee, uit die naam of name van enige van die huidige of voormalige lede van die maatskappy of van 'n persoon of persone wat, hetsy vir eie rekening of in vennootskap, 'n praktyk voortgesit het wat redelikerwys as 'n voorganger van die praktyk van die maatskappy beskou kan word. 15

(5) Enige—

- (a) handeling wat deur of in opdrag of met die uitdruklike of stilswyende toestemming van 'n direkteur of werknemer van 'n maatskappy in hierdie artikel bedoel, met of sonder 'n besondere opset verrig is; en 20

- (b) versuim, met of sonder 'n besondere opset, om 'n handeling te verrig wat verrig moes gewees het maar nie verrig is nie deur of in opdrag van 'n direkteur of werknemer van 'n maatskappy, 25

by die uitoefening van sy bevoegdhede of die uitvoering van sy pligte as so 'n direkteur of werknemer, of ter bevordering of gepoogde bevordering van die belange van so 'n maatskappy, en wat onbehoorlike gedrag sou uitgemaak het indien dit verrig of nagelaat is deur 'n bourekenaar wat as natuurlike persoon sy professie in private professionele raadgevende praktyk beoefen, word by die toepassing van hierdie Wet geag deur elke lid of aandeelhouer of werknemer van so 'n maatskappy wat 'n geregistreerde bourekenaar is, verrig of nagelaat te gewees het, tensy daar bewys word dat so 'n bourekenaar nie aan die verrigting van die handeling of versuim deelgeneem het en dit nie kon verhoed het nie. 30 35 40

(6) 'n Maatskappy in hierdie artikel bedoel wat op 'n ander wyse as ingevolge 'n vrystelling vooraf kragtens hierdie Wet verleen, werk wat kragtens artikel 7 (3) (c) vir bourekenaars voorbehou is, aan enige persoon, hetsy 'n lid, aandeelhouer of werknemer van die maatskappy of nie, wat nie 'n geregistreerde bourekenaar is nie, opdra, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tienduizend rand. 45 50

(7) Iemand wat—

- (a) nie 'n genomineerde of 'n voorsitter bedoel in subartikel (1) (b) (vi) is nie, en wat enige stemreg bedoel in daardie subartikel uitoefen gedurende die tydperk daarin bedoel; of 55

- (b) 'n bepaling van subartikel (3) (a) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens duisend rand.

(8) (a) Die bepalings van artikel 7 (3) (b) en (c) van hierdie Wet met betrekking tot bourekenaars is *mutatis mutandis* van toepassing ten opsigte van 'n maatskappy in hierdie artikel bedoel. 60

- (b) Die betaling deur 'n maatskappy in hierdie artikel bedoel, ooreenkomstig die bepalings van hierdie Wet, ten behoeve van 'n geregistreerde bourekenaar wat sy professie beoefen as 'n aandeelhouer of werknemer van daardie maatskappy, van enige jaargeld of heffing, word by die toepassing van hierdie Wet geag 'n betaling deur die betrokke bourekenaar te wees. 65

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(b), shall be available for allotment in terms of the articles of the company.

(e) Any transfer of shares in a company referred to in this section, or of any rights and benefits attaching thereto, in conflict with subsection (1) (b) (iv), shall be null and void.

(4) Subject to the provisions of section 49 (4) of the said Companies Act, 1973, the name of a company referred to in this section shall, unless the council in any particular case approves of any other name, consist solely of the name or names of any of the present or past members of the company or of a person or persons who conducted, either for his or their own account or in partnership, any practice which may reasonably be regarded as a predecessor of the practice of the company.

(5) Any—

(a) act performed, with or without a particular intent, by, or on instructions or with permission, express or implied, given by, a director or employee of a company referred to in this section; and

(b) omission, with or without a particular intent, of any act which ought to have been but was not performed by or on instructions given by a director or employee of a company,

in the exercise of his powers or in the performance of his duties as such director or employee or in furthering or endeavouring to further the interests of that company, and which would have constituted improper conduct if it had been performed or omitted by a quantity surveyor carrying on his profession as a natural person in private professional consulting practice, shall for the purposes of this Act be deemed to have been performed or omitted by every member or shareholder or employee of such a company being a registered quantity surveyor, unless it is proved that such quantity surveyor did not take part in the performance of the act or the omission and that he could not have prevented it.

(6) A company referred to in this section which, otherwise than under an exemption granted in terms of this Act, entrusts work reserved under section 7 (3) (c) for quantity surveyors to any person, whether a member, shareholder or employee of the company or not, other than a registered quantity surveyor, shall be guilty of an offence and liable on conviction to a fine not exceeding ten thousand rand.

(7) Any person who—

(a) not being a nominee or a chairman referred to in subsection (1) (b) (vi), exercises any voting rights contemplated in that subsection during the period referred to therein; or

(b) contravenes a provision of subsection (3) (a), shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand.

(8) (a) The provisions of section 7 (3) (b) and (c) of this Act in respect of quantity surveyors shall apply *mutatis mutandis* in respect of a company referred to in this section.

(b) The payment in accordance with the provisions of this Act by a company referred to in this section on behalf of a registered quantity surveyor who carries on his profession as a shareholder or employee of that company, of any annual fees or levies, shall for the purposes of this Act be deemed to be a payment by such quantity surveyor."

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WYSIGINGSWET OP BOUREKENAARS, 1982

Wysiging van
artikel 23 van
Wet 36 van 1970,
soos gewysig deur
artikel 13 van
Wet 79 van 1979.

9. Artikel 23 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) aan die einde van paragraaf (f) die woord „of” in te voeg; en
(b) deur by subartikel (1) die volgende paragrawe by te voeg:

„(g) sy professie beoefen as aandeelhouer, vennoot of werknemer van 'n maatskappy in artikel 22A bedoel wat nie aan die vereistes van artikel 22A of enige ander toepaslike bepaling van hierdie Wet voldoen nie; of

(h) in sy hoedanigheid van lid, aandeelhouer, werknemer of direkteur van 'n maatskappy in artikel 22A bedoel, enige handeling verrig of versuim begaan wat ingevolge 'n bepaling van hierdie Wet onbehoorlike gedrag sou uitgemaak het indien die bourekenaar dit verrig of begaan het by die beoefening van sy professie as natuurlike persoon in private professionele raadgewende praktyk.”.

Wysiging van
artikel 25 van
Wet 36 van 1970.

10. Artikel 25 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

„(2) 'n Dagvaarding van iemand om voor die raad te verskyn of om 'n boek, dokument of saak oor te lê, moet in die vorm wees wat die raad voorskryf, moet deur die president van die raad of 'n deur die raad daartoe gemagtigde persoon onderteken word, en word **[op dieselfde wyse]** **bestel [as 'n dagvaarding in 'n strafgeding deur 'n landdroshof uitgereik]** op 'n wyse deur die raad bepaal.”.

Wysiging van
artikel 27 van
Wet 36 van 1970,
soos gewysig deur
artikel 15 van
Wet 79 van 1979.

11. Artikel 27 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:

„(e) wat reëls voorskryf waaraan bourekenaars moet voldoen by die uitoefening van hul professie, met inbegrip van reëls waaraan 'n maatskappy in artikel 22A bedoel, moet voldoen by die verrigting van sy werksaamhede ter uitvoering van sy hoofdoelstelling;”;

- (b) deur paragraaf (h) van subartikel (1) deur die volgende paragraaf te vervang:

„(h) aangaande die **[eksamens]** **eksamen** vereis vir die doeleindes van artikel 19 (2) (b) **[en (7) (c) (ii)]**;”;

- (c) deur paragraaf (hA) van subartikel (1) deur die volgende paragraaf te vervang:

„(hA) aangaande die ondersoeke of navraag wat deur die raad gedoen of ingestel kan word met die doel om die waarde van eksamens te bepaal met die oog op erkenning ingevolge artikel 19 (2) (b) **[en (7) (c) (ii)]**, en die prosedure wat in verband daarmee nagekom moet word;”;

- (d) deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Elke regulasie is van krag en regsgeldig tensy en totdat, gedurende die sessie waarin **[dit]** **die goewermentskennisgewing waarkragtens die regulasie in die Staatskoerant gepubliseer is in [albei Huise van]** die Parlement ter Tafel gelê is soos bepaal by artikel 17 55 van die Interpretasiewet, 1957 (Wet No. 33 van 1957), **[albei Huise]** **die Volksraad** die regulasie by besluit afgekeur het, in welke geval die regulasie verval met ingang van 'n datum wat in die besluit vermeld word, maar die verval van die regulasie raak nie die geldigheid van enigiets wat ingevolge sodanige regulasie voor die datum in die besluit vermeld, gedoen is nie en niks wat in hierdie subartikel vervat is, raak die bevoegdheid van die Minister om 'n nuwe regulasie met betrekking tot die inhoud van daardie regulasie uit te vaardig 65 nie.”.

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9. Section 23 of the principal Act is hereby amended—

Amendment of
section 23 of
Act 36 of 1970,
as amended by
section 13 of
Act 79 of 1979.

(a) by the insertion in subsection (1) at the end of paragraph (f) of the word "or"; and

(b) by the addition to subsection (1) of the following paragraphs:

(g) carries on his profession as a shareholder, partner or employee of a company referred to in section 22A which does not comply with any requirement of section 22A or any other applicable provision of this Act; or

(h) in his capacity as a member, shareholder, employee or director of a company referred to in section 22A, performs any act or commits any omission which would under any provision of this Act have constituted improper conduct if it had been performed or committed by the quantity surveyor in the carrying on of his profession as a natural person in private professional consulting practice."

10. Section 25 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of
section 25 of
Act 36 of 1970.

"(2) A summons for the attendance before the council of any person or for the production of any book, document or thing shall be in the form prescribed by the council, shall be signed by the president of the council or a person authorized thereto by it, and shall be served in **[the same manner as a subpoena in a criminal case issued by a magistrate's court]** such a manner as the council may determine."

11. Section 27 of the principal Act is hereby amended—

Amendment of
section 27 of
Act 36 of 1970,
as amended by
section 15 of
Act 79 of 1979.

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

"(e) prescribing rules with which quantity surveyors shall comply in carrying on their profession, including rules with which a company referred to in section 22A shall comply in the performance of its activities in carrying out its main object;";

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

"(h) as to the **[examinations]** examination required for the purposes of section 19 (2) (b) **[and (7) (c) (ii)]**;"

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

"(hA) as to the investigations or enquiries that may be made or instituted by the council for the purpose of the evaluation of examinations with a view to recognition in terms of section 19 (2) (b) **[and (7) (c) (ii)]**, and the procedure to be observed in connection therewith;"

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

"(2) Every regulation shall be of force and effect unless and until, during the session in which **[it]** the government notice under which the regulation has been published in the *Gazette* has been laid upon the **[Tables]** Table **[of both Houses of]** in Parliament as provided by section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), **[both Houses have]** the House of Assembly has by resolution disapproved of the regulation, in which event the regulation shall lapse as from a date to be specified in the resolution, but the lapsing of the regulation shall not affect the validity of anything done in terms of such regulation before the date specified in the resolution, and nothing contained in this subsection shall affect the power of the Minister to make a new regulation with regard to the subject matter of that regulation."

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WYSIGINGSWET OP BOUREKENAARS, 1982

Vervanging van
„Sekretaris” deur
„Direkteur-gene-
raal” in
Wet 36 van 1970.

12. Die Hoofwet word hierby gewysig deur die woord „Sekretaris”, waar dit ook al voorkom, deur die woord „Direkteur-generaal” te vervang.

Kort titel en
inwerkingtreding.

13. (1) Hierdie Wet heet die Wysigingswet op Bourekenaars, 1982. 5

(2) Artikels 7 (b), 8, 9 en 11 (a) van hierdie Wet tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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12. The principal Act is hereby amended by the substitution for the word "Secretary", wherever it occurs, of the word "Director-General".

Substitution of
"Director-General"
for "Secretary" in
Act 36 of 1970.

13. (1) This Act shall be called the Quantity Surveyors' Amendment Act, 1982.

Short title and
commencement.

(2) Sections 7 (b), 8, 9 and 11 (a) of this Act shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

