



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprys  
(GST excluded/AVB uitgesluit)

Local **45c** Plaaslik  
Other countries 60c Buitelands  
Post free • Posvry

VOL. 241

CAPE TOWN, 31 JULY 1985

No. 9865

KAAPSTAD, 31 JULIE 1985

## STATE PRESIDENT'S OFFICE

No. 1633.

31 July 1985

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

No. 106 of 1985: Financial Institutions Amendment Act, 1985.

## KANTOOR VAN DIE STAATSPRESIDENT

No. 1633.

31 Julie 1985

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

No. 106 van 1985: Wysigingswet op Finansiële Instellings, 1985.

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Act No. 106, 1985

FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985

## GENERAL EXPLANATORY NOTE:

- [ ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.
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## ACT

To amend the Insurance Act, 1943, so as to further define "life policy"; to further regulate the appointment and functions of auditors, local auditors and valuators of registered insurers and the appointment of advisory committees; to increase the amount to be deposited by underwriters at Lloyds in a certain trust account; to make other provision regarding the payment of dividends by insurers to their shareholders; and to extend the power of the Minister of Finance to make regulations; to amend the Banks Act, 1965, so as to define or further define certain expressions and to delete certain definitions; to alter the classification of banking institutions for the purposes of registration; to provide further for the obtaining of control over banking institutions, and for the returns which a banking institution has to render to the Registrar of Banks; to further regulate the requirements in respect of the share capital and reserves, the reserve balance with the South African Reserve Bank and the minimum liquid assets which a banking institution shall maintain; to confer certain powers on the Minister of Finance as to liquid assets that banks carrying on business outside the Republic shall maintain; to empower the said Registrar to issue certain directives in relation to business carried on by banks outside the Republic; to delete the requirement that a banking institution shall maintain prescribed investments; to provide therefor that a banking institution shall obtain the approval of the said Registrar to open a branch office outside the Republic; to prohibit bank controlling companies from carrying on the business of a banking institution outside the Republic; to further regulate the voting power of a shareholder *nomine officii*; to make new provision for the limitation of certain activities of banks; and to curtail the right to inspect certain returns of banking institutions; to amend the Building Societies Act, 1965, so as to further define certain expressions and to delete a certain definition; to extend the forms of security in which building societies may invest; to further regulate the minimum liquid assets which a building society shall maintain; to delete the requirement that a building society shall maintain certain prescribed investments; and to further regulate the period of repayment of loans against reducible mortgage; and to provide for matters connected therewith.

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(English text signed by the State President.)  
(Assented to 10 July 1985.)

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**ALGEMENE VERDUIDELIKENDE NOTA:**

**[ ]** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordnings aan.

**\_\_\_\_\_** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordnings aan.

**WET**

Tot wysiging van die Versekeringswet, 1943, ten einde "lewens-polis" nader te omskryf; die aanstelling en werksaamhede van ouditeurs, plaaslike ouditeurs en waardeerders van geregistreerde versekeraars en die aanstelling van advieskomitees verder te reël; die bedrag wat versekeraars van Lloyds in 'n sekere trustrekening moet stort, te verhoog; ander voorsiening te maak betreffende die uitbetaling van dividende deur versekeraars aan hul aandeelhouers; en die bevoegdheid van die Minister van Finansies om regulasies uit te vaardig, uit te brei; tot wysiging van die Bankwet, 1965, ten einde sekere uitdrukkings te omskryf of nader te omskryf en sekere omskrywings te skrap; die klassifikasie van bankinstellings vir die doeleindes van registrasie te verander; verdere voorsiening te maak vir die verkryging van beheer oor bankinstellings, en vir die opgawes wat bankinstellings aan die Registrateur van Banke moet voorlê; die vereistes ten opsigte van die aandelekapitaal en reserwes, die reserwesaldo by die Suid-Afrikaanse Reserwebank en die minimum likwiede bates wat 'n bankinstelling in stand moet hou, verder te reël; aan die Minister van Finansies sekere bevoegdhede te verleen aangaande likwiede bates wat banke wat buite die Republiek besigheid dryf, in stand moet hou; genoemde Registrateur te magtig om sekere voorskrifte uit te reik met betrekking tot besigheid deur banke buite die Republiek gedryf; die vereiste dat 'n bankinstelling voorgeskrewe beleggings in stand moet hou, te skrap; voorsiening te maak daarvoor dat 'n bankinstelling die goedkeuring van genoemde Registrateur moet verkry om 'n takkantoor buite die Republiek te open; bankbeheermaatskappy te belet om die besigheid van 'n bankinstelling buite die Republiek te dryf; die stemkrag van 'n aandeelhouer *nomine officii* verder te reël; nuwe voorsiening te maak vir die beperking van sekere bedrywighede van banke; en die reg op insae in sekere opgawes van bankinstellings in te kort; tot wysiging van die Bouverenigingswet, 1965, ten einde sekere uitdrukkings nader te omskryf en 'n sekere omskrywing te skrap; die soorte sekuriteit waarin bouverenigings mag belê, uit te brei; die minimum likwiede bates wat 'n bouvereniging in stand moet hou, verder te reël; die vereiste dat 'n bouvereniging sekere voorgeskrewe beleggings in stand moet hou, te skrap; en die terugbetalingstermyn van lenings teen verminderbare verband verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)  
(Goedgekeur op 10 Julie 1985.)

## Act No. 106, 1985

## FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985

**B**E 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 and section 1 of Act 86 of 1984.

Amendment of section 2A of Act 27 of 1943, as inserted by section 2 of Act 94 of 1977.

Amendment of section 2B of Act 27 of 1943, as inserted by section 2 of Act 99 of 1980.

Amendment of section 9 of Act 27 of 1943, as amended by section 7 of Act 73 of 1951, section 8 of Act 79 of 1959, section 7 of Act 10 of 1965 and section 5 of Act 39 of 1969.

1. Section 1 of the Insurance Act, 1943, is hereby amended by the insertion in subsection (1) after paragraph (bb) in the definition of "life policy" of the following paragraph:

"(cc) any contract in terms of which a registered insurer who is authorized to carry on life business, underwrites an obligation which a pension fund, a retirement annuity fund, a provident fund or a benefit fund (but not a medical aid scheme registered under the provisions of the Medical Schemes Act, 1967 (Act No. 72 of 1967),) as defined in the Income Tax Act, 1962 (Act No. 58 of 1962), or a Friendly Society as defined in the Friendly Societies Act, 1956 (Act No. 25 of 1956), owes to its members;".

2. Section 2A of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) The Minister [shall] may appoint an advisory committee on matters relating to long-term insurance, consisting of the registrar as chairman and such other members as the Minister may from time to time determine.".

3. Section 2B of the Insurance Act, 1943, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) The Minister [shall] may appoint an advisory committee on matters relating to short-term insurance, consisting of the registrar as chairman and such other members as the Minister may from time to time determine.".

4. Section 9 of the Insurance Act, 1943, is hereby amended—

(a) by the deletion in subsection (1) of the second proviso;  
 (b) by the substitution in subsection (2) for the word "provisos" of the word "proviso";  
 (c) by the insertion after subsection (2) of the following subsection:

"(2A) Whenever the appointment of an auditor or local auditor is terminated, otherwise than contemplated in subsection (2), that auditor or local auditor shall forthwith submit a report to the registrar in which the following is stated:

(a) Whether to his knowledge an irregularity in the conduct of the affairs of the insurer which has caused or is likely to cause financial loss to the insurer is contemplated, has taken place or is taking place;

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## WYSIGINGSWET OP FINANSIELE INSTELLINGS, 1985

Wet No. 106, 1985

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

1. Artikel 1 van die Versekeringswet, 1943, word hierby gewysig deur in subartikel (1) na paragraaf (bb) in die omskrywing 5 van "lewenspolis" die volgende paragraaf in te voeg:

"(cc) enige ooreenkoms ingevolge waarvan 'n geregistreerde  
versekeraar wat gemagtig is om lewensbesigheid te  
dryf, 'n verpligting wat 'n pensioenfonds, 'n uittreding-  
annuiteitsfonds, 'n voorsorgfonds of 'n bystandfonds  
(maar nie 'n mediese skeema wat kragtens die Wet op  
Mediese Skemas, 1967 (Wet No. 72 van 1967), geregis-  
treer is nie), soos omskryf in die Inkomstebelasting-  
wet, 1962 (Wet No. 58 van 1962), of 'n Onderlinge  
Hulpvereniging soos omskryf in die Wet op Onderlinge  
Hulpverenigings, 1956 (Wet No. 25 van 1956), teenoor  
sy lede het, onderskryf;".

Wysiging van  
artikel 1 van  
Wet 27 van 1943,  
soos gewysig deur  
artikel 2 van  
Wet 73 van 1951,  
artikel 39 van  
Wet 24 van 1956,  
artikel 50 van  
Wet 25 van 1956,  
artikel 1 van  
Wet 79 van 1959,  
artikel 1 van  
Wet 10 van 1965,  
artikel 1 van  
Wet 41 van 1966,  
artikel 1 van  
Wet 65 van 1968,  
artikel 1 van  
Wet 39 van 1969,  
artikel 1 van  
Wet 91 van 1972,  
artikel 1 van  
Wet 101 van 1976,  
artikel 1 van  
Wet 94 van 1977,  
artikel 1 van  
Wet 80 van 1978,  
artikel 1 van  
Wet 103 van 1979,  
artikel 1 van  
Wet 99 van 1980,  
artikel 1 van  
Wet 36 van 1981  
en artikel 1 van  
Wet 86 van 1984.

2. Artikel 2A van die Versekeringswet, 1943, word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

20 "(a) Die Minister [stel] kan 'n advieskomitee oor aangeleenthede betreffende langtermynversekeringswese [aan] aanstel, wat bestaan uit die registrator as voor-  
sitter en die ander lede wat die Minister van tyd tot tyd bepaal."

Wysiging van  
artikel 2A van  
Wet 27 van 1943,  
soos ingeveog deur  
artikel 2 van  
Wet 94 van 1977.

25 3. Artikel 2B van die Versekeringswet, 1943, word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

"(a) Die Minister [stel] kan 'n advieskomitee oor aangeleenthede betreffende korttermynversekeringswese [aan] aanstel, wat bestaan uit die registrator as voor-  
sitter en die ander lede wat die Minister van tyd tot tyd bepaal."

Wysiging van  
artikel 2B van  
Wet 27 van 1943,  
soos ingeveog deur  
artikel 2 van  
Wet 99 van 1980.

4. Artikel 9 van die Versekeringswet, 1943, word hierby gewysig

35 (a) deur in subartikel (1) die tweede voorbehoudsbepaling te skrap;  
(b) deur in subartikel (2) die woord "voorbehoudsbepalings" deur die woord "voorbehoudsbepaling" te vervang;  
40 (c) deur na subartikel (2) die volgende subartikel in te voeg:

"(2A) Wanneer die aanstelling van 'n ouditeur of plaaslike ouditeur beëindig word, anders as in subartikel (2) bedoel, moet dié ouditeur of plaaslike ouditeur onverwyd 'n verslag aan die registrator voorlê waarin vermeld word—

Wysiging van  
artikel 9 van  
Wet 27 van 1943,  
soos gewysig deur  
artikel 7 van  
Wet 73 van 1951,  
artikel 8 van  
Wet 79 van 1959,  
artikel 7 van  
Wet 10 van 1965  
en artikel 5 van  
Wet 39 van 1969.

(a) of daar na sy wete 'n onreëlmatigheid by die be-  
stuur van die sake van die versekeraar beoog  
word, plaasgevind het of plaasvind wat vir die ver-  
sekeraar finansiële verlies veroorsaak het of waar-  
skynlik sal veroorsaak;

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**Act No. 106, 1985****FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985**

Amendment of section 10 of Act 27 of 1943, as amended by section 8 of Act 73 of 1951, section 9 of Act 79 of 1959 and section 6 of Act 39 of 1969.

- (b) particulars of the irregularity; and
- (c) the reason, if known, or the presumable reason for the termination of his appointment.”; and
- (d) by the insertion after subsection (4) of the following subsection:  
“(4A) No person shall hinder or obstruct an auditor or local auditor in the performance of his duties or the exercise of his powers under this Act.”.

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- 5. Section 10 of the Insurance Act, 1943, is hereby amended—**
- (a) by the substitution for subsection (2) of the following subsection:  
“(2) The [provisos] proviso to section 9 (1) and the provisions of section 9 (1)bis, [and] (2) and (2A) shall apply mutatis mutandis in connection with the valuator of a registered insurer.”;
  - (b) by the insertion after subsection (4) of the following subsection:  
“(4A) No person shall hinder or obstruct a valuator in the performance of his duties or the exercise of his powers under this Act.”; and
  - (c) by the insertion after subsection (6) of the following subsection:  
“(6A) A valuator shall not attest without qualification a statement referred to in subsection (6), unless he has satisfied himself as provided in that subsection.”.

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Amendment of section 23B of Act 27 of 1943, as inserted by section 9 of Act 103 of 1979 and amended by section 8 of Act 99 of 1980.

- 6. Section 23B of the Insurance Act, 1943, is hereby amended—**
- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:  
“(b) if such declaration applies to an insurer who is registered under this Act to carry on funeral, industrial, life or home service business or to a person who renders services towards effecting, maintaining or servicing funeral, industrial, life or home service policies underwritten by a registered insurer, the registrar has consulted the advisory committee, if any, appointed in terms of section 2A, about it; and”;
  - (b) by the substitution for paragraph (c) of subsection (1) of the following paragraph:  
“(c) if such declaration applies to an insurer who is registered under this Act to carry on fire, guarantee, marine, miscellaneous, motor or personal accident business or to a person who renders service towards effecting, maintaining or servicing fire, guarantee, marine, miscellaneous, motor or personal accident policies underwritten by a registered insurer, the registrar has consulted the advisory committee, if any, appointed in terms of section 2B, about it.”.

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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 and section 7 of Act 86 of 1984.

- 7. Section 60 of the Insurance Act, 1943, is hereby amended by the substitution for subparagraph (i) of paragraph (j) of subsection (1) of the following subparagraph:**

“(i) Underwriters at Lloyds, acting through the person referred to in paragraph (g), shall deposit in the trust account aforesaid an amount equivalent to [seventy] one hundred and thirty per cent, or such percentage as the Minister may from time to time determine, of all premiums and additional premiums less return premiums,

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## WYSIGINGSWET OP FINANSIELLE INSTELLINGS, 1985

Wet No. 106, 1985

- (b) besonderhede van die onreëlmatigheid; en  
 (c) die rede, indien bekend, of die waarskynlike rede vir die beëindiging van sy aanstelling.”; en  
 (d) deur na subartikel (4) die volgende subartikel in te voeg:  
 “(4A) Niemand mag 'n ouditeur of plaaslike ouditeur by die verrigting van sy pligte of die uitoefening van sy bevoegdhede kragtens hierdie Wet hinder of belemmer nie.”.
- 10 5. Artikel 10 van die Versekeringswet, 1943, word hierby gewysig—  
 (a) deur subartikel (2) deur die volgende subartikel te vervang:  
 “(2) Die **[voorbehoudsbepalings]** voorbehoudsbepaling by artikel 9 (1) en die bepalings van artikel 9 (1)**bis**, **[en]** (2) en 2A is *mutatis mutandis* van toepassing in verband met 'n waardeerdeer van 'n geregistreerde versekeraar.”;
- 15 (b) deur na subartikel (4) die volgende subartikel in te voeg:  
 “(4A) Niemand mag 'n waardeerdeer by die verrigting van sy pligte of die uitoefening van sy bevoegdhede kragtens hierdie Wet hinder of belemmer nie.”; en  
 (c) deur na subartikel (6) die volgende subartikel in te voeg:  
 “(6A) 'n Waardeerdeer mag nie 'n opgawe in subartikel (6) bedoel, sonder voorbehoud waarmerk nie, tensy hy homself volgens voorskrif van daardie subartikel vergewis het.”.
- 20 30 6. Artikel 23B van die Versekeringswet, 1943, word hierby gewysig—  
 (a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:  
 “(b) indien sodanige verklaring van toepassing is op 'n versekeraar wat kragtens hierdie Wet geregistreer is om begrafnis-, nywerheids-, lewens- of tuisdiensbesigheid te dryf of op 'n persoon wat dienste lever tot die aangaan, instandhouding of versorging van begrafnis-, nywerheids-, lewens- of tuisdienspolisse wat onderskryf is deur 'n geregistreerde versekeraar, die registrator die advieskomitee wat kragtens artikel 2A aangestel is, as daar is, daaroor geraadpleeg het; en”; en  
 (b) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:  
 “(c) indien sodanige verklaring van toepassing is op 'n versekeraar wat kragtens hierdie Wet geregistreer is om brand-, garansie-, see-, gemengde, motor- of persoonlike ongevallebesigheid te dryf of op 'n persoon wat dienste lever tot die aangaan, instandhouding of versorging van brand-, garansie-, see-, gemengde, motor- of persoonlike ongevallepolisse wat onderskryf is deur 'n geregistreerde versekeraar, die registrator die advieskomitee wat kragtens artikel 2B aangestel is, as daar is, daaroor geraadpleeg het.”.
- 35 40 50 55 7. Artikel 60 van die Versekeringswet, 1943, word hierby gewysig deur subparagraph (i) van paragraaf (j) van subartikel (1) deur die volgende subparagraph te vervang:  
 “(i) Versekeraars van Lloyds handelende deur tussenkoms van die in paragraaf (g) bedoelde persoon, stort in bedoelde trustrekening 'n bedrag gelykstaande met **[se-wentig]** eenhonderd-en-dertig persent, of die persentasie wat die Minister van tyd tot tyd bepaal, van al die premies en addisionele premies min terugbetaalde pre-

Wysiging van artikel 10 van Wet 27 van 1943, soos gewysig deur artikel 8 van Wet 73 van 1951, artikel 9 van Wet 79 van 1959 en artikel 6 van Wet 39 van 1969.

Wysiging van artikel 23B van Wet 27 van 1943, soos ingevoeg deur artikel 9 van Wet 103 van 1979 en gewysig deur artikel 8 van Wet 99 van 1980.

Wysiging van artikel 60 van Wet 27 van 1943, soos vervang deur artikel 8 van Wet 41 van 1966 en gewysig deur artikel 2 van Wet 65 van 1968 en artikel 7 van Wet 86 van 1984.

**Act No. 106, 1985****FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985**

Amendment of section 73ter of Act 27 of 1943, as inserted by section 21 of Act 79 of 1959 and substituted by section 10 of Act 86 of 1984.

less payments in terms of paragraph (f) and less all commissions relating to policies and endorsements in respect of such insurance business as aforesaid, received through persons carrying on such business and taken down at Lloyds policy signing office subsequent to the 5 thirtieth day of June, 1966.”.

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 and section 11 of Act 86 of 1984.

**8. Section 73ter of the Insurance Act, 1943, is hereby amended by the substitution for subsection (2) of the following subsection:**

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- (a) “(2) An insurer [referred to in subsection (1)] who—  
fails to comply with any provision of section 17 (1), 17  
(4), 18 (1) or 18 (4) and who pays out [any] dividends  
to shareholders during the existence of a deficiency [so  
referred to] in the assets required in terms of the said  
sections; or  
(b) pays out dividends to shareholders when such payment  
causes a deficiency referred to in paragraph (a),  
shall be guilty of an offence.”.
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**9. Section 76 of the Insurance Act, 1943, is hereby amended by the insertion in subsection (1) after paragraph (bA) of the following paragraph:**

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- “(bB) prescribing periods within which policies and amended  
policies are to be issued.”.

Amendment of section 1 of Act 23 of 1965, as amended by section 12 of Act 91 of 1972, section 37 of Act 101 of 1976, section 18 of Act 80 of 1978, section 27 of Act 103 of 1979, section 45 of Act 99 of 1980, section 16 of Act 82 of 1982, section 20 of Act 46 of 1984 and section 22 of Act 86 of 1984.

**10. Section 1 of the Banks Act, 1965, is hereby amended—**

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- (a) by the insertion in subsection (1) after the definition of “associate” of the following definition:  
“bank’ means a person, other than a discount house,  
who carries on the business of a banking institution  
as described in subsection (2);”;
- (b) by the insertion in that subsection after the definition of “bank controlling company” of the following definition:  
“banking group’ means two or more banks one of  
which controls the other or all of which are con-  
trolled by the same bank controlling company;”;
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- (c) by the substitution in that subsection for the definition of “banking institution” or “institution” of the following definition:  
“banking institution’ or ‘institution’ means a bank or a  
discount house;”;
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- (d) by the deletion in that subsection of paragraph (d) of the definition of “liquid assets”,
- (e) by the insertion in that subsection in the definition of “liquid assets” of the following paragraph after paragraph (g):
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- “(gA) bills issued by the Land Bank for purposes of ex-  
tending short-term financing to an agricultural co-  
operative or a special farmers’ co-operative formed  
and incorporated under the Co-operatives Act,  
1981 (Act No. 91 of 1981), or which is deemed to be  
so formed and incorporated under that Act, for  
the purchase of agricultural products from farmers
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## WYSIGINGSWET OP FINANSIEËLE INSTELLINGS, 1985

Wet No. 106, 1985

mies, min betalings ingevolge paragraaf (f) en min al die kommissie wat betrekking het op polisse en endossemente ten opsigte van sodanige versekeringsbesigheid soos voormeld, ontvang deur tussenkoms van persone wat bedoelde besigheid dryf en aangeteken deur Lloyds se polisondertekeningskantoor na die dertigste dag van Junie 1966.”.

8. Artikel 73ter van die Versekeringswet, 1943, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) ’n Versekeraar [in subartikel (1) bedoel] wat—

(a) in gebreke bly om aan enige bepaling van artikel 17 (1), 17 (4), 18 (1) of 18 (4) te voldoen en wat dividende aan aandeelhouers uitbetaal gedurende die bestaan van 'n **[aldus bedoelde]** tekort in die bates ingevolge enige

(b) dividende aan aandeelhouers uitbetaal wanneer sodanige uitbetaling 'n tekort soos bedoel in paragraaf (a) tot gevolg het,

20 is aan 'n misdryf skuldig.”

Wysiging van artikel 73ter van Wet 27 van 1943, soos ingevoeg deur artikel 21 van Wet 79 van 1959 en vervang deur artikel 10 van Wet 86 van 1984.

9. Artikel 76 van die Versekeringswet, 1943, word hierby gewysig deur na paragraaf (bA) van subartikel (1) die volgende paragraaf in te voeg:

**“(bB) wat tydperke voorskryf waarbinne polisse of gewysigde polisse uitgereik moet word.”.**

Wysiging van artikel 76 van Wet 27 van 1943, soos vervang deur artikel 9 van Wet 41 van 1966 en gewysig deur artikel 13 van Wet 101 van 1976 en artikel 11 van Wet 86 van 1984.

**10.** Artikel 1 van die Bankwet, 1965, word hierby gewysig—

(a) deur in subartikel (1) voor die omskrywing van "bankbeheermaatskappy" die volgende omskrywing in te voeg:

30       “bank’ n persoon (uitgesonderd ’n diskontohuis) wat die bedryf van ’n bankinstelling, soos omskryf in subartikel (2), beoefen;”;

deur in daardie subartikel na die omskrywing van "bankbeheermaatskappy" die volgende omskrywing in:

“bankbeneermaatskappy” die volgende omskrywing in te voeg:

bankgroep twee of meer banke waarvan een beheer oor die ander het of wat almal deur diesselfde bankbeheerraatskappy beheer word.”:

deur in daardie subartikel die omskrywing van "bank-

40 deur in daardie subartikel die omskrywing van "bank-instelling" of "instelling" deur die volgende omskrywing te vervang:

**“bankinstelling” of “instelling” ’n bank of ’n diskonto-**

dit ook al voorkom, deur die woord "een-en-dertigste te vervang; deur in daardie subartikel in die omskrywing van "li-

(e) deur in daardie subartikel in die omskrywing van "likwiede bates" paragraaf (d) te skrap;

deur in daardie saamhorig in die omstrywing van "kwiede bates" na paragraaf (g) die volgende paragraaf

“(gA) wissels deur die Landbank uitgereik vir doelein-

des van die verstrekking van korttermynfinansier-

55 ing aan 'n landboukoöperasie of 'n spesiale boere-  
koöperasie kragtens die Koöperasiewet, 1981  
(Wet No. 91 van 1981), opgerig en ingelyf of wat  
kragtens daardie Wet geag word aldus opgerig en  
ingelyf te wees, vir die aankoop van landboupro-  
dukte van boere en van landbou-implemente, -uit-

Wysiging van artikel 1 van Wet 23 van 1965, soos gewysig deur artikel 12 van Wet 91 van 1972, artikel 37 van Wet 101 van 1976, artikel 18 van Wet 80 van 1978, artikel 27 van Wet 103 van 1979, artikel 45 van Wet 99 van 1980, artikel 16 van Wet 82 van 1982, artikel 20 van Wet 46 van 1984 en artikel 22 van Wet 86 van 1984.

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and of agricultural implements, equipment and other means of production for resale to farmers for the production of agricultural products;”;

- (f) by the substitution in that subsection for paragraph (h) of the definition of “liquid assets” of the following paragraph:

“(h) for a period of not more than three years from the date of commencement of section 10 of the Financial Institutions Amendment Act, 1985, other bills issued by the Land Bank and advances to the said bank which, at the option of the lender, are convertible into bills, up to the respective amounts representing the percentages, determined from time to time by the Minister by notice in the Gazette, of the amount of such bills held by the banking institution on the said date of commencement and of the amount owing to the banking institution on that date in respect of such advances, respectively;”;

- (g) by the substitution in that subsection for paragraph (i) of the definition of “liquid assets” of the following paragraph:

“(i) debentures of the Land Bank held by the banking institution on the date of commencement of section 10 of the Financial Institutions Amendment Act, 1985, and which on that date had [with] a maturity of not more than three years;”;

- (h) by the substitution in that subsection for paragraph (j) of the definition of “liquid assets” of the following paragraph:

“(j) debentures or notes issued by the Industrial Development Corporation of South Africa, Limited, in connection with a scheme for financing the export of capital goods, held by the banking institution on the date of commencement of section 10 of the Financial Institutions Amendment Act, 1985, and which [have] on that date had a maturity of not more than three years;”;

- (i) by the substitution in that subsection for paragraph (n) of the definition of “liquid assets” of the following paragraph:

“(n) promissory notes issued by a foreign borrower in favour of a banking institution registered in terms of this Act or the Industrial Development Corporation of South Africa, Limited, constituted under the Industrial Development Act, 1940 (Act No. 22 of 1940), or bills drawn on a foreign borrower and accepted by him, in terms of any loan agreement concluded between the foreign borrower and such a banking institution for the financing of the export of capital goods or the financing of services and re-insured in terms of the Export Credit Re-insurance Act, 1957 (Act No. 78 of 1957), if such promissory notes or bills comply with any further requirements under the regulations and were held by the banking institution on the date of commencement of section 10 of the Financial Institutions Amendment Act, 1985;”;

- (j) by the substitution in that subsection for the word “thirty-first”, wherever it appears in the definition of “medium-term liability”, of the word “thirty-second”;

- (k) by the substitution in that subsection for the word “thirtieth”, wherever it appears in the definition of “short-term liability”, of the word “thirty-first”;

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- rusting en ander produksiemiddelle vir herverkoop aan boere vir die produksie van landbouprodukte;”;
- (g) deur in daardie subartikel in die omskrywing van “likwiede bates” paragraaf (h) deur die volgende paragraaf te vervang:
- “(h) vir ’n tydperk van hoogstens drie jaar vanaf die datum van inwerkingtreding van artikel 10 van die Wysigingswet op Finansiële Instellings, 1985, ander wissels deur die Landbank uitgereik en voor-skotte aan daardie bank wat na keuse van die uit-lener in wissels omgesit kan word tot die onder-skeie bedrae wat die persentasies wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoe-rant* bepaal, verteenwoordig van onderskeidelik die bedrag van sodanige wissels wat die bank op genoemde datum van inwerkingtreding gehou het en van die bedrag wat ten opsigte van sodanige voorskotte op daardie datum aan die bankinstel-ling verskuldig was;”;
- (h) deur in daardie subartikel in die omskrywing van “likwiede bates” paragraaf (i) deur die volgende paragraaf te vervang:
- “(i) obligasies van die Landbank wat die bankinstelling op die datum van inwerkingtreding van artikel 10 van die Wysigingswet op Finansiële Instellings, 1985, gehou het [met 'n] en waarvan op daardie datum die oorblywende termyn tot die vervaldatum [van] hoogstens drie jaar was;”;
- (i) deur in daardie subartikel in die omskrywing van “likwiede bates” paragraaf (j) deur die volgende paragraaf te vervang:
- “(j) obligasies of notas uitgereik deur die Nywerheid-ontwikkelingskorporasie van Suid-Afrika, Beperk, in verband met ’n skema om die uitvoer van kapitaalgoedere te finansier, wat die bankinstelling op die datum van inwerkingtreding van artikel 10 van die Wysigingswet op Finansiële Instellings, 1985, gehou het en wat op daardie datum ’n oorbly-wende termyn tot die vervaldatum daarvan van hoogstens drie jaar gehad het;”;
- (j) deur in daardie subartikel in die omskrywing van “likwiede bates” paragraaf (n) deur die volgende paragraaf te vervang:
- “(n) promesses deur ’n buitelandse lener uitgereik ten gunste van ’n kragtens hierdie Wet geregistreerde bankinstelling of die Nywerheid-ontwikkelingskor-porasie van Suid-Afrika, Beperk, ingestel kragtens die Nywerheid-ontwikkelingswet, 1940 (Wet No. 22 van 1940), of wissels op ’n buitelandse lener getrek en deur hom geaksepteer, ingevolge ’n le-ningsooreenkoms tussen die buitelandse lener en so ’n bankinstelling vir die finansiering van die uit-voer van kapitaalgoedere of die finansiering van dienste aangegaan en ingevolge die Uitvoerkre-dietherversekeringswet, 1957 (Wet No. 78 van 1957), herverseker, indien die promesses of wissels voldoen aan enige verdere vereistes ingevolge die regulasies en op die datum van inwerkingtreding van artikel 10 van die Wysigingswet op Finansiële Instellings, 1985, deur die bankinstelling gehou is;”;
- (k) deur in daardie subartikel in die omskrywing van “mid-deltermynverpligting” die woord “een-en-dertigste”, waar dit ook al voorkom, deur die woord “twee-en-dertigste” te vervang;

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- (l) by the deletion in that subsection of the definitions of "commercial bank", "general bank", "merchant bank" and "prescribed investments";
- (m) by the deletion in subsection (2) of the word "or" at the end of paragraph (a);
- (n) by the addition in that subsection of the word "or" at the end of paragraph (b);
- (o) by the addition to that subsection of the following paragraph:
  - "(c) carries on the business contemplated in the definition of "discount house" in subsection (1)"; and
- (p) by the substitution for paragraph (e) of subsection (5) of the following paragraph:
  - "(e) the amount by which the amount of the paid-up capital and unimpaired reserve funds required in terms of section 14 (3) exceeds the paid-up share capital and unimpaired reserve funds of a subsidiary referred to in section 13 (2) (b).".

Amendment of  
section 2 of  
Act 23 of 1965,  
as amended by  
section 38 of  
Act 101 of 1976  
and section 20 of  
Act 46 of 1984.

- 11. Section 2 of the Banks Act, 1965, is hereby amended—**
- (a) by the substitution for subsection (1) of the following subsection:
    - "(1) This Act shall not apply to the Post Office Savings Bank or the Land Bank or the Reserve Bank or the Corporation for Public Deposits or the Industrial Development Corporation of South Africa, Limited, or the Public **[Debt]** Investment Commissioners or to any local authority or any building society or any Black co-operative credit society registered under any proclamation issued under Act No. 29 of 1897 of the Cape of Good Hope or under the Black Administration Act, 1927 (Act No. 38 of 1927), or an institution having as its main objective the financing of the development of certain regions and which has been approved by the Minister and complies with conditions which the Minister may from time to time deem necessary and of which the institution has been notified in writing: Provided that such exemption shall not apply to any savings department or savings bank or similar deposit-receiving institution established by or in connection with any local authority."; and
  - (b) by the deletion of subsection (2).

Amendment of  
section 4 of  
Act 23 of 1965,  
as amended by  
section 23 of  
Act 86 of 1984.

- 12. Section 4 of the Banks Act, 1965, is hereby amended—**
- (a) by the substitution for subsection (1) of the following subsection:
    - "(1) Any person who intends to carry on the business of **[any class of]** a banking institution in the Republic, may apply to the Registrar for permission to establish **[such a banking institution]** a bank or discount house, and the Registrar shall grant such permission if the applicant satisfies him that the establishment of such institution will be in the public interest and, where the proposed business is that of a discount house, furnishes proof to him that the Reserve Bank will be prepared to recognize the applicant as a discount house.";
  - (b) by the substitution for subsection (2) of the following subsection:
    - "(2) An applicant to whom the Registrar has granted permission in terms of subsection (1) may, within the period fixed by the Registrar, apply to him in the form prescribed by regulation to be registered provisionally under this Act as a **[banking institution of the class in question]** bank or a discount house, as the case may be, and shall submit in duplicate with its application—
    - (a) its memorandum and articles of association;
    - (b) a statement of the address of its head office;

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- (l) deur in daardie subartikel die omskrywings van "aksepbank", "algemene bank", "handelsbank" en "voorgeskrewe beleggings" te skrap;
- 5 (m) deur in subartikel (2) die woord "of" aan die einde van paragraaf (a) te skrap;
- (n) deur in daardie subartikel aan die einde van paragraaf (b) die woord "of" by te voeg;
- (o) deur in daardie subartikel die volgende paragraaf by te voeg:
- 10 "c) die bedryf bedoel in die omskrywing van 'diskontohuis' in subartikel (1), beoefen.>"; en
- (p) deur paragraaf (e) van subartikel (5) deur die volgende paragraaf te vervang:
- 15 "e) die bedrag waarmee die bedrag van die gestorte aandelekapitaal en onaangetaste reserwefondse ooreenkomsdig artikel 14 (3) vereis, die gestorte aandelekapitaal en onaangetaste reserwefondse van 'n filiaal bedoel in artikel 13 (2) (b), oorskry.".
- 20 11. Artikel 2 van die Bankwet, 1965, word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 25 "(1) Hierdie Wet is nie van toepassing nie op die Posspaarbank of die Landbank of die Reserwebank of die Nywerheid-ontwikkelingskorporasie van Suid-Afrika, Beperk, of die **[Staatskuldkommissaris]** Openbare Beleggingskommissaris of op enige plaaslike bestuur of 'n bouvereniging of 'n koöperatiewe Swart kredietvereniging wat ingevolge 'n proklamasie uitgevaardig kragtens Wet No. 29 van 1897 van die Kaap die Goeie Hoop of kragtens die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), geregistreer is of 'n instelling wat die financiering van die ontwikkeling van bepaalde gebiede as hoofdoelstelling het en wat deur die Minister goedgekeur is en voldoen aan die voorwaardes wat die Minister van tyd tot tyd nodig mag ag en waarvan die instelling skriftelik in kennis gestel is: Met dien verstande dat sodanige vrystelling nie van toepassing is nie op 'n spaardepartement of spaarbank of dergelike deposito-nemende instelling wat oopgerig is deur of in verband met 'n plaaslike bestuur.;";
- 30 (b) deur subartikel (2) te skrap.
- 35 12. Artikel 4 van die Bankwet, 1965, word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 40 "(1) 'n Persoon wat voornemens is om in die Republiek die bedryf van 'n bankinstelling **[van enige klas]** uit te oefen, kan by die Registrateur aansoek doen om toestemming om **[so 'n bankinstelling]** 'n bank of diskontohuis te stig, en die Registrateur verleen sodanige toestemming indien die applikant hom oortuig dat die stigting van bedoelde instelling in die openbare belang sal wees en, waar die voorgestelde bedryf dié van 'n diskontohuis is, aan hom bewys lewer dat die Reserwebank bereid sal wees om die applikant as 'n diskontohuis te erken.;"
- 45 (b) deur subartikel (2) deur die volgende subartikel te vervang:
- 50 "(2) 'n Applikant aan wie die Registrateur kragtens subartikel (1) toestemming verleen het, kan binne die tydperk wat die Registrateur vasstel in die by regulasie voorgeskrewe vorm by hom aansoek doen om ingevolge hierdie Wet as 'n **[bankinstelling van die betrokke klas]** bank of diskontohuis, na gelang van die geval, voorlopig geregistreer te word, en moet saam met sy aansoek die volgende in tweevoud voorlê, te wete—
- 55 (a) sy akte van oprigting en statute;
- 60 (b) 'n aangifte van die adres van sy hoofkantoor;

Wysiging van  
artikel 2 van  
Wet 23 van 1965,  
soos gewysig deur  
artikel 38 van  
Wet 101 van 1976  
en artikel 20 van  
Wet 46 van 1984.

Wysiging van  
artikel 4 van  
Wet 23 van 1965,  
soos gewysig deur  
artikel 23 van  
Wet 86 van 1984.

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- (c) a statement of the name and address of its chairman and of every director and of its chief executive officer; and
- (d) full particulars of the business it proposes to carry on and of the manner in which it proposes to carry on such business.”;
- (c) by the substitution for subsection (4) of the following subsection:
- “(4) If the Registrar is satisfied—
- (a) that the business proposed to be carried on is that of a banking institution of the class in respect of which registration is desired;
- (b) that the memorandum and articles of association of the applicant are not inconsistent with this Act and are not undesirable for any reason; and
- (c) that the applicant does not propose to adopt undesirable methods of conducting business,
- he shall, subject to the provisions of subsections (6) and (7), and after payment by the applicant of the registration fee prescribed by regulation, register the applicant provisionally as a **[banking institution of the said class]** bank or a discount house, as the case may be.”;
- (d) by the insertion after subsection (4) of the following subsection:
- “(4A) A bank which at the commencement of section 12 (d) of the Financial Institutions Amendment Act, 1985, is registered or provisionally registered as a merchant bank, general bank or commercial bank shall be deemed to be registered or provisionally registered under this section as a bank, but the provisions of this subsection shall not affect any right or privilege which belonged to such a bank by virtue of the fact that it was registered as such a merchant bank, general bank or commercial bank.”;
- (e) by the substitution for subsection (6) of the following subsection:
- “(6) The Registrar shall not register an applicant provisionally unless the applicant is a public company incorporated and registered **[or deemed to have been incorporated and registered]** under the Companies Act, 1926 (Act No. 46 of 1926) 1973 (Act No. 61 of 1973).”;
- (f) by the substitution for paragraph (d) of subsection (7) of the following paragraph:
- “(d) the applicant proposes to carry on business in a location as defined in the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), and the Department of **[Plural Relations and Development] Co-operation, Development and Education** has recommended that it be not provisionally registered.”; and
- (g) by the substitution for subsection (9) of the following subsection:
- “(9) If a provisionally registered institution becomes fully qualified for registration at any time while it is provisionally registered, by reason of the fact that it has complied with any requirements imposed under subsection (8), the Registrar shall, upon payment of the registration fee prescribed by regulation, register such institution as a **[banking institution of the class to which it belongs]** bank or a discount house, as the case may be.”.

Amendment of  
section 7 of  
Act 23 of 1965,  
as amended by  
section 39 of  
Act 101 of 1976.

13. Section 7 of the Banks Act, 1965, is hereby amended by the substitution in subsection (1) for the words “banking institution of a particular class” of the words “a bank or a discount house”.

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- (c) 'n aangifte van die naam en adres van sy voorsitter en van iedere direkteur en van sy hoof-uitvoerende beamppte; en
- (d) volledige besonderhede van die bedryf wat hy voornemens is om uit te oefen en van die wyse waarop hy voornemens is om dit uit te oefen.'';
- 5 (c) deur subartikel (4) deur die volgende subartikel te vervang:
- 10        "(4) Indien die Registrateur oortuig is—
- (a) dat die bedryf wat dit die voorneme is om uit te oefen dié is van 'n bankinstelling van die klas ten opsigte waarvan registrasie verlang word;
- (b) dat die akte van origting en statute van die applikant nie met hierdie Wet onbestaanbaar is nie en nie om die een of ander rede ongewens is nie; en
- 15 (c) dat die applikant nie voornemens is om by uitoeffening van die bedryf ongewenste metodes toe te pas nie,
- 20 moet hy, behoudens die bepalings van subartikels (6) en (7), en teen betaling deur die applikant van die registrasiegeld by regulasie voorgeskryf, die applikant as 'n **[bankinstelling van die bedoelde klas]** **bank of 'n diskontohuis**, na gelang van die geval, voorlopig registreer.'';
- 25 (d) deur na subartikel (4) die volgende subartikel in te voeg:
- 30        "(4A) 'n Bank wat by die inwerkingtreding van artikel 12 (d) van die Wysigingswet op Finansiële Instellings, 1985, geregistreer of voorlopig geregistreer is as 'n aksepbank, algemene bank of handelsbank word geag ingevolge hierdie artikel as 'n bank geregistreer of voorlopig geregistreer te wees, maar die bepalings van hierdie subartikel raak nie enige reg of voorreg wat sodanige bank ingevolge die een of ander Wet toegekom het uit hoofde van die feit dat hy as so 'n aksepbank, algemene bank of handelsbank geregistreer was nie.'';
- 35 (e) deur subartikel (6) deur die volgende subartikel te vervang:
- 40        "(6) Die Registrateur registreer nie 'n applikant voorlopig nie, tensy die applikant 'n publieke maatskappy is wat ingevolge die Maatskappywet, [1926 (Wet No. 46 van 1926)] 1973 (Wet No. 61 van 1973), met regspersoonlikheid beklee en geregistreer is [**of geag word met regspersoonlikheid beklee en geregistreer te wees**.]";
- 45 (f) deur paragraaf (d) van subartikel (7) deur die volgende paragraaf te vervang:
- 50        "(d) die applikant voornemens is om sake te doen in 'n lokasie soos in die Swartes (Stadsgebiede) Konsolidasiewet, 1945 (Wet No. 25 van 1945), omskryf, en die Departement van **[Plurale Betrekkinge en Ontwikkeling]** Samewerking, Ontwikkeling en Onderwys aanbeveel het dat dit nie voorlopig geregistreer moet word nie.''; en
- 55 (g) deur subartikel (9) deur die volgende subartikel te vervang:
- 60        "(9) Indien 'n voorlopige geregistreerde instelling te eniger tyd terwyl hy voorlopig geregistreer is ten volle vir registrasie bevoeg word op grond daarvan dat hy aan enige ingevolge subartikel (8) opgelegde vereistes voldoen het, moet die Registrateur, teen betaling van die registrasiegeld by regulasie voorgeskryf, daardie instelling registreer as 'n **[bankinstelling van die klas waaronder hy ressorteer]** **bank of 'n diskontohuis**, na gelang van die geval.'".

65 13. Artikel 7 van die Bankwet, 1965, word hierby gewysig deur in subartikel (1) die woorde "bankinstelling van 'n bepaalde klas" deur die woorde "bank of 'n diskontohuis" te vervang.

Wysiging van  
artikel 7 van  
Wet 23 van 1965,  
soos gewysig deur  
artikel 39 van  
Wet 101 van 1976.

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Amendment of  
section 10 of  
Act 23 of 1965,  
as amended by  
section 41 of  
Act 101 of 1976.

- 14.** Section 10 of the Banks Act, 1965, is hereby amended—  
 (a) by the substitution for subsection (3) of the following subsection:  
 “(3) (a) When a banking institution, in the opinion of the Registrar, has ceased to carry on the business of a banking institution of the class in which it is registered or provisionally registered, the Registrar shall by notice in writing call upon that institution to show cause, within a period of not less than thirty days stated in the notice, why its registration or provisional registration shall not be cancelled [or, in the case of an institution continuing to carry on banking business, shall not be converted into registration or provisional registration as a banking institution of the appropriate class].”  
 (b) If the institution does not, within the period mentioned in paragraph (a), show cause to the satisfaction of the Registrar, he shall cancel the registration of the institution [or, in the case of an institution continuing to carry on banking business, convert its registration into registration of a banking institution of the appropriate class].  
 (c) A cancellation [or conversion in terms of paragraph (b)] shall take effect one month after the date on which the Registrar has given written notice thereof to the institution concerned, unless within that period the institution appeals to the Minister in terms of section *three* against the Registrar’s decision, in which case the cancellation [or conversion] shall have no force or effect unless and until it has been confirmed by the Minister.  
 (d) The Minister may after considering any appeal under paragraph (c) confirm the decision of the Registrar or set it aside and substitute any decision which in his opinion the Registrar ought to have given, and any such decision shall be final and shall be carried out in all respects as if it were the Registrar’s decision.  
 [(e) When the registration or provisional registration of an institution has been converted into registration or provisional registration in another class in terms of this subsection, the Registrar shall issue to the institution a certificate of such conversion]; and  
 (b) by the deletion of subsection (4).

Substitution of  
section 11 of  
Act 23 of 1965.

- 15.** The following section is hereby substituted for section 11 of the Banks Act, 1965:

“Voluntary cancellation of registration.”  
**11.** Upon the application or with the consent in writing of a banking institution the Registrar may cancel its registration or provisional registration [or convert its registration or provisional registration] under this Act [as a banking institution of a particular class into a registration or provisional registration as a banking institution of any other class, and when he has so converted a registration or provisional registration he shall issue to the institution a certificate of the new or converted registration or provisional registration].”

Substitution of  
section 12 of  
Act 23 of 1965.

- 16.** The following section is hereby substituted for section 12 of the Banks Act, 1965:

“Publication of fact of registration and of name and class of banking institution.”  
**12.** (1) Upon the registration or provisional registration of any banking institution or upon the cancellation or suspension [or conversion] of any such registration or upon the expiry of a provisional registration or upon the change of the name of an institution, the Registrar shall cause to be published a notice thereof in the *Gazette*.

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**14. Artikel 10 van die Bankwet, 1965, word hierby gewysig—**

(a) deur subartikel (3) deur die volgende subartikel te vervang:

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“(3) (a) Wanneer 'n bankinstelling volgens die oordeel van die Registrateur nie meer die bedryf van 'n bankinstelling van die klas waarin dit geregistreer of voorlopig geregistreer is, uitoefen nie, sê die Registrateur daardie instelling by skriftelike kennisgewing aan om binne 'n in die kennisgewing vermelde tydperk, wat nie minder as dertig dae mag wees nie, redes aan te voer waarom sy registrasie of voorlopige registrasie nie ingetrek moet word [**of, in die geval van 'n instelling wat voortgaan om die bankbedryf uit te oefen, nie na registrasie of voorlopige registrasie as 'n bankinstelling van die gepaste klas verander moet word**] nie.

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(b) Indien die instelling nie binne die in paragraaf (a) vermelde tydperk tot bevrediging van die Registrateur redes aanvoer nie, moet hy die instelling se registrasie intrek [**of, in die geval van 'n instelling wat voortgaan om die bankbedryf uit te oefen die registrasie verander na registrasie van 'n bankinstelling van gepaste klas**].

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(c) 'n Intrekking [**of verandering kragtens paragraaf (b)**] tree in werking een maand na die datum waarop die Registrateur die betrokke instelling skriftelik daarvan kennis gegee het, tensy die instelling binne dié tydperk kragtens artikel *drie* na die Minister appelleer teen die Registrateur se besluit, en in so 'n geval is die intrekking [**of verandering**] nietig tensy en totdat dit deur die Minister bekragnig word.

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(d) Die Minister kan na oorweging van 'n appèl ingevolge paragraaf (c) die Registrateur se besluit bekragnig of dit tersyde stel en in die plek daarvan enige beslissing gee wat die Registrateur na sy oordeel moes gegee het, en so 'n beslissing is afdoende en word in alle opsigte uitgevoer asof dit die Registrateur se besluit is.

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(e) Wanneer die registrasie of voorlopige registrasie van 'n instelling ingevolge hierdie subartikel na registrasie of voorlopige registrasie in 'n ander klas verander is, reik die Registrateur 'n sertifikaat van die verandering aan die instelling uit.”; en

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(b) deur subartikel (4) te skrap.

**15. Artikel 11 van die Bankwet, 1965, word hierby deur die volgende artikel vervang:**

“Vrywillige intrekking van registrasie.

11. Op aansoek van of met die skriftelike toestemming van 'n bankinstelling kan die Registrateur sy registrasie of voorlopige registrasie ingevolge hierdie Wet intrek [**of sy registrasie of voorlopige registrasie as 'n bankinstelling van 'n bepaalde klas, verander na 'n registrasie of voorlopige registrasie as 'n bankinstelling van 'n ander klas en wanneer hy aldus 'n registrasie of voorlopige registrasie verander het, moet hy 'n sertifikaat van die nuwe of veranderde registrasie of voorlopige registrasie aan die instelling uitreik**].”.

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“Publikasie van die feit van registrasie en van naam en klas van bankinstelling.

Wysiging van artikel 10 van Wet 23 van 1965, soos gewysig deur artikel 41 van Wet 101 van 1976.

Vervanging van artikel 11 van Wet 23 van 1965.

Vervanging van artikel 12 van Wet 23 van 1965.

12. (1) Na die registrasie of voorlopige registrasie van 'n bankinstelling of na die intrekking of opskorting [**of verandering**] van so 'n registrasie of na verstryking van 'n voorlopige registrasie of na 'n verandering van die naam van 'n instelling moet die Registrateur 'n kennisgewing daarvan in die Staatskoerant laat publiseer.

## Act No. 106, 1985

## FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985

Amendment of section 12A of Act 23 of 1965, as inserted by section 42 of Act 101 of 1976 and amended by section 28 of Act 103 of 1979 and section 25 of Act 86 of 1984.

- (2) Every banking institution shall display—  
 (a) conspicuously and in easily legible letters at the entrance to every place in the Republic where the banking institution carries on any business as such;  
 (b) in easily legible letters on every statement, notice, advertisement or letter published or issued to any member of the public in the Republic by or on behalf of the banking institution, the name of the institution and a statement of the fact that it is authorized to carry on the business of a banking institution of the class in which the institution in question was registered or provisionally registered.”.

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17. Section 12A of the Banks Act, 1965, is hereby amended— 15  
 (a) by the substitution for subsection (1) of the following subsection:

“(1) No person shall without the prior written approval of the registrar acquire control over a banking institution, and [subject to the provisions of subsection (6), a person, other than a registered banking institution, shall not acquire control over a banking institution unless he is registered as a bank controlling company] the Registrar shall not grant such approval—

- (a) in the case of a bank, to a person other than a registered bank or registered bank controlling company; and  
 (b) in the case of a discount house, to a person other than a registered bank controlling company.”;  
 (b) by the deletion of subsections (2), (3) and (4);  
 (c) by the substitution for subsection (5) of the following subsection:  
 “(5) A person who intends to acquire control over a banking institution must obtain the written approval of the Registrar, and unless such a person is a registered bank controlling company or [banking institution or an institution mentioned in subsection (6)] bank he must also apply to the Registrar, in the manner prescribed by regulation, to be registered as a bank controlling company and submit with his application the information and documents prescribed by regulation.”; and  
 (d) by the deletion of subsection (6).

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Amendment of section 13 of Act 23 of 1965, as amended by section 19 of Act 80 of 1978.

18. Section 13 of the Banks Act, 1965, is hereby amended—

- (a) by the deletion in paragraph (a) of subsection (1) of the words “the prescribed investments”;  
 (b) by the substitution, in the Afrikaans text, for paragraph (b) of subsection (1) of the following paragraph:  
 “(b) binne 'n tydperk van veertig dae vanaf die einde van elke kalenderkwartaal, 'n staat in die vorm soos [wat in 'n] by regulasie [voorgeskrewe bates, 45 soos deur hierdie Wet vereis, in] voorgeskryf en soos voormald gesertifiseer [is], van sy bates en laste aan die einde van die laaste besigheidsdag in daardie kwartaal;”;  
 (c) by the substitution for subsection (2) of the following subsection:  
 “(2) The regulations referred to in paragraphs (a), (b) and (c) of subsection (1) may—  
 (a) prescribe different forms for the statements and returns to be furnished by [various classes of institutions] banks and discount houses;

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## WYSIGINGSWET OP FINANSIELE INSTELLINGS, 1985

Wet No. 106, 1985

- (2) Iedere bankinstelling moet—  
 (a) op 'n ooglopende plek en in maklik leesbare letters by die ingang van iedere plek in die Republiek waar die bankinstelling as sodanig sy bedryf uitvoer;  
 (b) in maklik leesbare letters op elke staat, kennisgewing, advertensie of brief wat uitgegee of aan enige lid van die Republiek deur of namens die bankinstelling uitgereik word,  
 die naam van die instelling en 'n vermelding van die feit dat dit gemagtig is om die bedryf uit te oefen van 'n bankinstelling van die klas waarin die betrokke instelling geregistreer of voorlopig geregistreer is, vertoon.”.
- 15 17. Artikel 12A van die Bankwet, 1965, word hierby gewysig—  
 (a) deur subartikel (1) deur die volgende subartikel te vervang:  
 “(1) Niemand mag sonder die voorafgaande skrifteleke goedkeuring van die Registrateur beheer oor 'n bankinstelling verkry nie, en [**, behoudens die bepalings van subartikel (6), mag 'n ander persoon as 'n geregistreerde bankinstelling nie beheer oor 'n bankinstelling verkry nie, tensy hy as 'n bankbeheermaatskappy geregistreer is]**] die Registrateur verleen nie sodanige goedkeuring—  
 (a) in die geval van 'n bank, aan 'n ander persoon as 'n geregistreerde bank of geregistreerde bankbeheermaatskappy nie; en  
 (b) in die geval van 'n diskontohuis, aan 'n ander persoon as 'n geregistreerde bankbeheermaatskappy nie.”;  
 (b) deur subartikels (2), (3) en (4) te skrap;  
 (c) deur subartikel (5) deur die volgende subartikel te vervang:  
 “(5) 'n Persoon wat beoog om beheer oor 'n bankinstelling te verkry, moet die skrifteleke goedkeuring van die Registrateur verkry, en tensy so 'n persoon 'n geregistreerde bankbeheermaatskappy of [**bankinstelling of 'n instelling vermeld in subartikel (6)**] bank is, moet hy ook op die wyse by regulasie voorgeskryf by die Registrateur aansoek doen om as 'n bankbeheermaatskappy geregistreer te word en saam met sy aansoek die inligting en stukke voorlê wat by regulasie voorgeskryf is.”; en  
 (d) deur subartikel (6) te skrap.
18. Artikel 13 van die Bankwet, 1965, word hierby gewysig—  
 (a) deur in paragraaf (a) van subartikel (1) die woorde “die voorgeskrewe beleggings” te skrap;  
 (b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:  
 “(b) binne 'n tydperk van veertig dae vanaf die einde van elke kalenderkwartaal, 'n staat in die vorm soos [wat in 'n] by regulasie **[voorgeskrewe bates, soos deur hierdie Wet vereis, in]** voorgeskryf en soos voormeld gesertifiseer [**is**], van sy bates en laste aan die einde van die laaste besigheidsdag in daardie kwartaal;”;  
 (c) deur subartikel (2) deur die volgende subartikel te vervang:  
 “(2) Die in paragrawe (a), (b) en (c) van subartikel (1) bedoelde regulasies kan—  
 (a) verskillende vorms voorskryf vir die state en opgawes wat deur [**verskillende klasse instellings**] banke en diskontohuise verstrek moet word;

Wysiging van artikel 12A van Wet 23 van 1965, soos ingevoeg deur artikel 42 van Wet 101 van 1976 en gewysig deur artikel 28 van Wet 103 van 1979 en artikel 25 van Wet 86 van 1984.

Wysiging van artikel 13 van Wet 23 van 1965, soos gewysig deur artikel 19 van Wet 80 van 1978.

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## FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985

- (b) prescribe that a banking institution which carries on the business of a banking institution (as defined in section 1 (2)) by way of a subsidiary, branch office, agency or joint undertaking (unless it has an interest of less than thirty per cent) outside the Republic, shall incorporate the information referred to paragraphs (a), (b) and (c) of subsection (1) in respect of such business in the returns and statements which it has to furnish to the Registrar in accordance with those paragraphs and shall also furnish such information separately to the Registrar in the prescribed form and certified as aforesaid;
- (c) prescribe that in the case of a banking group, the controlling company of such banking group shall, in addition to the returns furnished by each bank in the group, furnish to the Registrar the information concerned in the prescribed form and certified in accordance with paragraph (a) of subsection (1), relating to all the banking institutions in the group, including the business referred to in paragraph (b), if any, in consolidated form."; and
- (d) by the deletion of subsections (4) and (5).

Amendment of section 14 of Act 23 of 1965, as amended by section 3 of Act 23 of 1970, section 44 of Act 101 of 1976, section 29 of Act 103 of 1979, section 46 of Act 99 of 1980 and section 23 of Act 36 of 1981.

**19. Section 14 of the Banks Act, 1965, is hereby amended—**

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

"(1) A **[banking institution (other than a discount house)]** bank shall, subject to the provisions of subsection (2), maintain in the Republic a paid-up share capital and unimpaired reserve funds together amounting to not less than—

(a) **[two hundred thousand] one million rand; or**

(b) **[six per cent of]** an amount which represents the average of the total amounts **[of its liabilities to the public in the Republic excluding liabilities under acceptances, plus four per cent of an amount which represents the average of the total amounts of such last-mentioned liabilities and the banking institution's contingent liabilities under promissory notes, bills and any other similar instrument endorsed by it]** representing the percentages, determined by regulation, of the amounts of the different groups of assets, groups of contingent liabilities and other groups of risk exposures in the conduct of its business, as determined by regulation, and of the amount of the repurchase agreements (excluding such agreements entered into with the Reserve Bank) at the end of each of **[the months of]** the last preceding three calendar **[quarter]** quarters, as shown in the **[monthly]** returns furnished to the Registrar in terms of section 13 (1) **[(a)] (c)** in respect of such **[months]** calendar quarters,

whichever is the greater **[: Provided that for the purposes of the application of this subsection—**

- (i) a banking institution may deduct from its aforesaid liabilities, other than liabilities under acceptances, an amount equal to the amount of liquid assets it holds in excess of the amount required by this Act; and
- (ii) a commercial bank may deduct from its aforesaid liabilities, other than liabilities under acceptances, in addition to the amount referred to in paragraph (i), an amount equal to fifty per cent of the remittances in transit].";

## WYSIGINGSWET OP FINANSIELE INSTELLINGS, 1985

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- (b) voorskryf dat 'n bankinstelling wat buite die Republiek die bedryf van 'n bankinstelling (soos in artikel 1 (2) omskryf) deur 'n filiaal, takkantoor, agentskap of gesamentlike onderneming (tensy hy 'n belang van minder as dertig persent het) beoefen, die inligting in paragrawe, (a), (b) en (c) van subartikel (1) bedoel, ten opsigte van daardie bedryf moet inlyf by die opgawes en state wat hy ingevolge daardie subparagrawe aan die Registrateur moet verstrek en moet dit ook afsonderlik, in die voorgeskrewe vorm en soos voormeld gesertifiseer, aan die Registrateur verstrek;
- (c) voorskryf dat in die geval van 'n bankgroep, die beherende maatskappy van sodanige bankgroep, benewens die opgawes deur elke bank in die groep verstrek, die toepaslike inligting in subartikel (1) bedoel, in die voorgeskrewe vorm en ooreenkomsdig paragraaf (a) van subartikel (1) gesertifiseer, ten opsigte van al die bankinstellings in die groep, met inbegrip van die bedryf in paragraaf (b) bedoel, indien daar is, in gekonsolideerde vorm aan die Registrateur moet verstrek."; en
- (d) deur subartikels (4) en (5) te skrap.
- 19.** Artikel 14 van die Bankwet, 1965, word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- "(1) 'n **[Bankinstelling wat nie 'n diskontohuis is nie]**, **Bank moet behoudens die bepalings van subartikel (2)** 'n gestorte aandelekapitaal en onaangestaste reserwfondse in die Republiek in stand hou wat tesame nie minder bedra nie as—
- (a) **[tweehonderduisend] eenmiljoen rand; of**
- (b) **[ses persent van]** 'n bedrag wat die gemiddelde is van die totale bedrae **[van sy verpligtings teenoor die publiek in die Republiek uitgesonderd verpligtings uit hoofde van aksepte, plus vier persent van 'n bedrag wat die gemiddelde is van die totale bedrae van laasgenoemde verpligtings en die bankinstelling se voorwaardelike verpligtings uit hoofde van promesses, wissels en enige ander soortgelyke instrument wat deur hom geëndosseer is]** wat die by regulasie bepaalde persentasies verteenwoordig van die bedrae van die onderskeie groepe bates, groepe voorwaardelike verpligtings en enige ander groepe risiko-blootstellings by die dryf van sy besigheid, soos by regulasie bepaal, en van die bedrag van die terugkoopooreenkomste (uitgesonderd sodanige ooreenkomste met die Reserwebank **aangegaan**) aan die einde van elk van die **[maande van die] jongste voorafgaande [kalenderkwartaal]** drie kalenderkwartale soos aangegee in die **[maand-opgawes]** opgawes wat hy ingevolge artikel 13 (1) **[(a)] (c) ten opsigte van daardie [maande] kalenderkwartale aan die Registrateur verstrek het,**
- na gelang van watter bedrag die grootste is [: Met dien verstande dat by die toepassing van hierdie subartikel—
- (i) 'n bankinstelling van sy voormalde verpligtings, uitgesonderd verpligtings uit hoofde van aksepte, 'n bedrag kan aftrek wat gelyk is aan die bedrag wat hy meer aan likwiede bates het as wat ingevolge hierdie Wet vereis word; en
- (ii) 'n handelsbank benewens die in paragraaf (i) vermelde bedrag, van sy voormalde verpligtings, uitgesonderd verpligtings uit hoofde van aksepte, 'n bedrag wat gelyk is aan vyftig persent van die remises in transito, kan aftrek].";

Wysiging van artikel 14 van Wet 23 van 1965, soos gewysig deur artikel 3 van Wet 23 van 1970, artikel 44 van Wet 101 van 1976, artikel 29 van Wet 103 van 1979, artikel 46 van Wet 99 van 1980 en artikel 23 van Wet 36 van 1981.

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- (b) by the substitution for subsection (2) of the following subsection:
- “(2) (a) Loan capital obtained by way of debentures, issued for a minimum period of seven years, may rank as capital for the purposes of subsection (1), if issued subject to—
- (i) the condition that the debentures may be repaid before maturity only at the option of the bank and with the prior written approval of the Registrar;
- (ii) the condition that, notwithstanding the provisions of any other Act, in the event of the liquidation of the bank the capital amount of the debentures shall not be repaid until the claims of other creditors have been satisfied; and
- (iii) the further conditions which the Minister may determine by regulation.
- (b) The total amount of debentures referred to in paragraph (a), issued and not repaid, shall at no time exceed an amount equal to twenty per cent of the amount of share capital and reserve funds which the institution is required to maintain.”;
- (c) by the insertion after subsection (2) of the following subsections:
- “(3) The provisions of subsection (1) shall apply mutatis mutandis to the business of a subsidiary mentioned in section 13 (2) (b).
- (4) A bank which on the date of commencement of section 19 of the Financial Institutions Amendment Act, 1985, does not comply with the provisions of subsection (1), shall correct the deficiency within the period and in accordance with the conditions determined by the Registrar.”; and
- (d) by the deletion of subsection (5). 35

Substitution of  
section 15 of  
Act 23 of 1965,  
as amended by  
section 45 of  
Act 101 of 1976.

**20.** The following section is hereby substituted for section 15 of the Banks Act, 1965:

- “Share capital requirement for discount houses.
15. A discount house shall maintain in the Republic a paid-up share capital and unimpaired reserve funds together amounting to not less than— 40
- (a) two hundred thousand one million rand; or
- (b) two per cent of the amount of its liabilities to the public [in the Republic] and the total amount of its repurchase agreements (excepting such agreements entered into with the Reserve Bank) as 45 shown in the last preceding quarterly statement furnished by it to the Registrar in terms of paragraph (b) of subsection (1) of section thirteen, whichever is the greater.”.

Amendment of  
section 16 of  
Act 23 of 1965,  
as substituted by  
section 13 of  
Act 91 of 1972  
and amended by  
section 47 of  
Act 99 of 1980.

**21.** Section 16 of the Banks Act, 1965, is hereby amended— 50

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) A banking institution (other than a discount house) bank shall maintain a reserve balance with the Reserve Bank [amounting] which, together with the total amount of its Reserve Bank notes, subsidiary coin and gold coin, amounts to not less than the sum of—
- (a) eight per cent of its short-term liabilities to the public in the Republic, other than liabilities under acceptances; and 60

## WYSIGINGSWET OP FINANSIEËLE INSTELLINGS, 1985

Wet No. 106, 1985

- (b) deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) (a) Leningskapitaal verkry by wyse van skuldbriewe, uitgereik vir 'n minimum termyn van sewe jaar, kan vir die doeleinnes van subartikel (1) as kapitaal geld, indien uitgereik onderworpe aan—
- (i) die voorwaarde dat die skuldbriewe voor die vervaldatum terugbetaal kan word slegs na die keuse van die bank en met die vooraf verkreë skriftelike goedkeuring van die Registrateur;
- (ii) die voorwaarde dat, ondanks die bepalings van enige ander Wet, by likwidasie van die bank die kapitaalbedrag van die skuldbriewe nie terugbetaal mag word alvorens die eise van ander skuldeisers ten volle bevredig is nie; en
- (iii) die verdere voorwaardes wat die Minister by regulasie mag bepaal.
- (b) Die totale bedrag van skuldbriewe in paragraaf (a) bedoel, uitgereik en nog nie terugbetaal nie, mag nie te eniger tyd 'n bedrag gelyk aan twintig persent van die bedrag wat die instelling aan aandelekapitaal en reserwefondse in stand moet hou, oorskry nie.”;
- (c) deur die volgende subartikels na subartikel (2) in te voeg:
- “(3) Die bepalings van subartikel (1) is *mutatis mutandis* van toepassing op die besigheid van 'n filiaal in artikel 13 (2) (b) vermeld.
- (4) 'n Bank wat op die datum van inwerkingtreding van artikel 19 van die Wysigingswet op Finansiële Instellings, 1985, nie aan die bepalings van subartikel (1) voldoen nie, moet die tekort regstel binne die tydperk en ooreenkomsdig die voorwaardes wat die Registrateur bepaal.”; en
- (d) deur subartikel (5) te skrap.

**20.** Artikel 15 van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

- “Aandelekapitaalvoorskrif vir diskontohuise.
15. 'n Diskontohuis moet in die Republiek 'n gestorte aandelekapitaal en onaangetaste reserwefondse in stand hou wat tesame nie minder bedra nie as—
- (a) **[tweehonderdduisend] eenmiljoen rand; of**
- (b) twee persent van die bedrag van sy verpligtings teenoor die publiek **[in die Republiek] en die totale bedrag van sy terugkoopooreenkomste (behalwe sodanige ooreenkomste met die Reserwebank aangegaan)** soos aangegee in die jongste kwartaalstaat wat hy ingevolge paragraaf (b) van subartikel (1) van artikel *dertien* aan die Registrateur verstrek het,  
na gelang van watter bedrag die grootste is.”.

Vervanging van artikel 15 van Wet 23 van 1965, soos gewysig deur artikel 45 van Wet 101 van 1976.

- 21.** Artikel 16 van die Bankwet, 1965, word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- “(1) 'n **[Bankinstelling (behalwe 'n diskontohuis)]** Bank moet by die Reserwebank 'n reserwesaldo in stand hou wat, tesame met die totale bedrag van sy Reserwebanknote, pasmunte en goudmunte, gelyk is aan minstens die som van—
- (a) agt persent van sy korttermynverpligtings teenoor die publiek in die Republiek, behalwe verpligtings uit hoofde van aksepte; en

Wysiging van artikel 16 van Wet 23 van 1965, soos vervang deur artikel 13 van Wet 91 van 1972 en gewysig deur artikel 47 van Wet 99 van 1980.

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## FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985

- (b) four per cent of its medium-term liabilities to the public in the Republic, other than liabilities under acceptances,  
as shown in the last preceding monthly return furnished by it to the Registrar in terms of section 13 (1) (a)."; 5
- (b) by the substitution for subsection (2) of the following subsection:  
"(2) For the purposes of the provisions of subsection (1) the provisions of provisos (i), (ii), (iii) and [(v)] (iv) [of] to section 17 (1) shall apply *mutatis mutandis*."; 10 and
- (c) by the addition of the following subsection:  
"(3) (a) Whenever the Governor of the Reserve Bank, with the consent of the Minister of Finance, deems it desirable in the national economic interest, he may determine that the percentages mentioned in paragraph (a) and (b) of subsection (1) shall be increased or decreased.  
(b) Whenever the Governor of the Reserve Bank has made a determination under paragraph (a), he shall inform the Registrar thereof in writing, and the Registrar shall as soon as practicable give written notice of the determination to every registered bank and cause the determination to be published by notice in the *Gazette*. 20  
(c) Any such determination shall take effect on a date mentioned in the notice whereby the determination in terms of paragraph (b) is promulgated in the *Gazette*."; 25
22. Section 17 of the Banks Act, 1965, is hereby amended— 30  
(a) by the substitution for subsection (1) of the following subsection:  
"(1) A [banking institution (other than a discount house)] bank shall maintain in the Republic liquid assets amounting to not less than the aggregate of— 35  
(a) [thirty] twenty per cent of its short-term liabilities to the public in the Republic, other than liabilities under acceptances;  
(b) [twenty] fifteen per cent of its medium-term liabilities to the public in the Republic, other than 40 liabilities under acceptances; and  
(c) five per cent of its long-term liabilities to the public in the Republic [; and  
(d) five per cent of its liabilities under acceptances and of its contingent liabilities under promissory notes, 45 bills and any other similar instrument endorsed by it],  
as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of subsection (1) of section thirteen: Provided that for the 50 purposes of this subsection—  
(i) the credit balance which [in the case of a commercial bank (as defined in subsection (3))] originates from a clearing house settlement or a similar settlement between [commercial] banks shall be 55 deemed not to be a liability to the public and a debit balance of such bank which originates from a clearing house settlement or a similar transaction between [commercial] banks shall be deemed not to be a liquid asset;  
(ii) a [commercial] bank may [effect the deduction referred to in proviso (ii) to subsection (1) of section fourteen] deduct from the liabilities referred to in 60

## WYSIGINGSWET OP FINANSIEËLE INSTELLINGS, 1985

Wet No. 106, 1985

- (b) vier persent van sy middeltermynverpligtings teenoor die publiek in die Republiek, behalwe verpligtings uit hoofde van aksepte,  
 soos aangegee in die jongste maandoggawe wat hy ingevolge artikel 13 (1) (a) aan die Registrateur verstrek het.”;
- (b) deur subartikel (2) deur die volgende subartikel te vervang:  
 “(2) By die toepassing van die bepalings van subartikel (1) is die bepalings van voorbehoudbepalings (i), (ii), (iii) en [(v)] (iv) by artikel 17 (1) *mutatis mutandis* van toepassing.”; en
- (c) deur die volgende subartikel by te voeg:  
 “(3) (a) Wanneer die President van die Reserwebank, met die instemming van die Minister van Finansies, dit in die nasionale ekonomiese belang wenslik ag, kan hy bepaal dat die in paragrawe (a) en (b) van subartikel (1) vermelde persentasies verhoog of verlaag word.
- (b) Wanneer die President van die Reserwebank kragtens paragraaf (a) 'n bepaling gemaak het, stel hy die Registrateur skriftelik daarvan in kennis, en die Registrateur moet so gou doenlik elke geregtreerde bank skriftelik van die bepaling in kennis stel en die bepaling by kennisgewing in die *Staatskoerant* laat afkondig.
- (c) So 'n bepaling word van krag op 'n datum vermeld in die kennisgewing waarby die bepaling ingevolge paragraaf (b) in die *Staatskoerant* afgekondig word.”.
- 22. Artikel 17 van die Bankwet, 1965, word hierby gewysig—**
- (a) deur subartikel (1) deur die volgende subartikel te vervang:  
 “(1) 'n **[Bankinstelling (behalwe 'n diskontohuis)]** Bank moet in die Republiek likwiede bates in stand hou tot 'n bedrag minstens gelyk aan die som van—  
 (a) **[dertig]** twintig persent van sy korttermynverpligtings teenoor die publiek in die Republiek, behalwe verpligtings uit hoofde van aksepte;  
 (b) **[twintig]** vyftien persent van sy middeltermynverpligtings teenoor die publiek in die Republiek, behalwe verpligtings uit hoofde van aksepte; en  
 (c) vyf persent van sy langtermynverpligtings teenoor die publiek in die Republiek [; en]  
 (d) vyf persent van sy verpligtings uit hoofde van aksepte en van sy voorwaardelike verpligtings uit hoofde van promesses, wissels en enige ander soortgelyke instrument wat deur hom geëndosseer is], soos aangegee in die jongste maandoggawe wat hy ingevolge paragraaf (a) van subartikel (1) van artikel *dertien* aan die Registrateur verstrek het: Met dien verstaande dat by die toepassing van hierdie subartikel—  
 (i) die kreditsaldo wat **[in die geval van 'n handelsbank (soos in subartikel (3) omskryf)]** uit 'n verrekeningshuisvereffening of 'n soortgelyke vereffening tussen **[handelsbanke]** banke ontstaan, geag word nie 'n verpligting teenoor die publiek te wees nie en 'n debietsaldo van daardie bank wat uit 'n verrekeningshuisvereffening of 'n soortgelyke transaksie tussen **[handelsbanke]** banke ontstaan, geag word nie 'n likwiede bate te wees nie;  
 (ii) 'n **[handelsbank die bedrag in voorbehoudbepaling (ii) by subartikel (1) van artikel veertien bedoel]** bank van die in paragraaf (a) hiervan vermelde verpligtings 'n bedrag wat gelyk is

Wysiging van  
artikel 17 van  
Wet 23 van 1965,  
soos vervang deur  
artikel 14 van  
Wet 91 van 1972  
en gewysig deur  
artikel 46 van  
Wet 101 van 1976,  
artikel 48 van  
Wet 99 van 1980,  
artikel 24 van  
Wet 36 van 1981  
en artikel 20 van  
Wet 46 van 1984.

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paragraph (a) hereof an amount equal to fifty per cent of the remittances in transit;

(iii) a [banking institution] bank may deduct from the liabilities referred to in paragraphs (a), (b) and (c) the amounts owing to it in respect of loans made by it against security of [fixed] deposits included under the said paragraphs as well as the amounts owing to it by other banks and payable within the respective periods referred to in paragraphs (a), (b) and (c); [and 10

(iv) the aggregate amount of—

(aa) acceptances; and  
 (bb) self-liquidating bills or promissory notes arising out of the movement of goods and discountable by the Reserve Bank, with a maturity not exceeding one hundred and twenty days or, in the case of agricultural bills, six months, which rank as liquid assets, shall not exceed twenty per cent of the total amount of liquid assets to be maintained by a banking institution in terms of this subsection after deduction of the reserve balance referred to in section sixteen, without, however, any of the foregoing provisions of this paragraph prohibiting a banking institution from holding, for purposes other than minimum liquid assets, any such acceptances, bills or promissory notes in excess of the aggregate amount which may, in terms of the said foregoing provisions, be included in the required minimum liquid assets 25

(v) (iv) in determining its liabilities referred to in paragraph (a), a [banking institution] bank shall, in respect of each of its branches, including its head office, where the total amount of its demand liabilities can be determined daily, bring into account the average daily amount of such liabilities for all 35 the [business] days in the month in question, instead of the amount of such liabilities at the end of such month.”;

(b) by the substitution for subsection (2) of the following subsection: 40

“(2) (a) The Minister may by notice in the Gazette determine that in respect of the business conducted by a bank outside the Republic in accordance with section 13 (2) (b), liquid assets shall be maintained as prescribed in subsection (1) of this section. 45

(b) The Registrar may by notice in the Gazette issue directives in regard to the correlation of maturities of the liabilities and investments expressed in foreign currencies of the business carried on by a bank outside the Republic as contemplated in section 13 (2) (b).”; and 50

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

“(3) For the purposes of subsection (1) a remittance 55 in transit means the amount of a cheque or other order to pay drawn on one of a bank's branches in the Republic or on another bank in the Republic or on the Reserve Bank, with which another branch in the Republic of the bank concerned has credited a client or 60 which it has paid out but with which the first-mentioned

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- aan vyftig persent van die remises in transito  
kan aftrek;
- (iii) 'n **[bankinstelling]** bank van die in paragrawe  
(a), (b) en (c) bedoelde verpligtings die be-  
drae kan aftrek wat aan hom verskuldig is ten  
opsigte van lenings deur hom toegestaan teen  
sekerheid van **[vaste]** deposito's wat onder  
daardie paragrawe val asook die bedrae deur  
ander banke aan hom verskuldig en betaal-  
baar binne die onderskeie termyne in para-  
grawe (a), (b) en (c) bedoel; ten
- (iv) die totaalbedrag aan—  
(aa) aksepte; en  
(bb) self-likwiderende wissels of promesses wat  
uit die beweging van goedere ontstaan,  
deur die Reserwebank verdiskonterbaar  
is en binne hoogstens honderd-en-twintig  
dae of, in die geval van landbouwissels,  
ses maande, verval,  
wat as likwiede bates geld, nie twintig persent  
van die totale bedrag van likwiede bates wat  
ingevolge hierdie subartikel na aftrekking van  
die in artikel *sestien* bedoelde reserwesaldo  
deur 'n bankinstelling in stand gehou moet  
word, te bowe mag gaan nie, sonder dat die  
voorafgaande bepальings van hierdie paragraaf  
'n bankinstelling egter belet om, vir ander  
doeleindes as minimum likwiede bates, 'n gro-  
ter totaalbedrag aan sodanige aksepte, wissels  
of promesses te hou as wat ingevolge die be-  
doelde voorafgaande bepальings by die vereiste  
minimum likwiede bates ingesluit mag wees;
- (v) (iv) 'n **[bankinstelling]** bank by die bepaling  
van sy verpligtings bedoel in paragraaf (a), ten  
opsigte van elkeen van sy takke, met inbegrip  
van sy hoofkantoor, waarvan die totale bedrag  
aan onmiddellik opeisbare verpligtings daag-  
likks bepaal kan word, die gemiddelde daag-  
likse bedrag van daardie verpligtings op al die  
**[besigheidsdae]** dae in die betrokke maand in  
plaas van die bedrag van daardie verpligtings  
aan die einde van daardie maand in bereke-  
ning moet bring.”;
- (b) deur subartikel (2) deur die volgende subartikel te ver-  
vang:  
“(2) (a) Die Minister kan by kennisgewing in die  
Staatskoerant bepaal dat ten opsigte van besigheid  
wat 'n bank ooreenkomsdig artikel 13 (2) (b) buite  
die Republiek dryf, likwiede bates soos in subarti-  
kel (1) van hierdie artikel voorgeskryf in stand ge-  
hou moet word.
- (b) Die Registrateur kan by kennisgewing in die  
Staatskoerant voorskrifte uitvaardig met betrek-  
king tot die korrelering van die vervaltye van die  
verpligtings en beleggings in buitelandse geldeen-  
hede uitgedruk van die besigheid deur 'n bank  
buite die Republiek gedryf soos bedoel in artikel  
13 (2) (b).”; en
- (c) deur subartikel (3) deur die volgende subartikel te ver-  
vang:  
“(3) By die toepassing van subartikel (1) beteken 'n  
remise in transito die bedrag van 'n tjek of ander  
betaalopdrag op een van 'n bank se takke in die Re-  
publiek of op die Reserwebank getrek, waarmee 'n an-  
der tak in die Republiek van die betrokke bank reeds  
'n kliënt gekrediteer het of wat hy reeds uitbetaal het,  
maar waarmee eersbedoelde tak of bedoelde ander

**Act No. 106, 1985****FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985**

Repeal of  
section 18 of  
Act 23 of 1965,  
as substituted by  
section 15 of  
Act 91 of 1972  
and amended by  
section 17 of  
Act 94 of 1977,  
section 30 of  
Act 103 of 1979,  
section 17 of  
Act 82 of 1982  
and section 26 of  
Act 86 of 1984.

Substitution of  
section 19 of  
Act 23 of 1965.

Amendment of  
section 20 of  
Act 23 of 1965.

Substitution of  
section 24 of  
Act 23 of 1965.

Substitution of  
section 25 of  
Act 23 of 1965.

Substitution of  
section 27A of  
Act 23 of 1965,  
as inserted by  
section 48 of  
Act 101 of 1976.

branch or such other bank or the Reserve Bank has not yet debited a client, and includes the amount of a warrant voucher which the bank has paid out or with which it has credited a client but for which it has not yet received repayment from the Secretary to the Treasury.”. 5

**23. Section 18 of the Banks Act, 1965, is hereby repealed.**

**24. The following section is hereby substituted for section 19 of the Banks Act, 1965:**

“Period for maintenance of prescribed minima. 19. A banking institution shall maintain any minimum amount prescribed by or under section *fourteen, fifteen, sixteen or seventeen [or eighteen]* at all times during the period from the date of certification under paragraph (a) or (c) of subsection (1) of section *thirteen* of the statement or return by reference to which that amount is determined, until the day 15 preceding the date on which the next succeeding such statement or return is so certified.”.

**25. Section 20 of the Banks Act, 1965, is hereby amended—**

(a) by the deletion in the second proviso to subsection (1) of the word “commercial”; and 20  
(b) by the deletion of subsection (2).

**26. The following section is hereby substituted for section 24 of the Banks Act, 1965:**

“Liquid assets may not be pledged or encumbered. 24. No portion of the assets constituting the liquid assets *[or the prescribed investments]* which a banking institution is, in terms of this Act, required to hold and maintain, shall be pledged or otherwise encumbered: Provided that the Minister may exempt any banking institution from the provisions of this section on such conditions and to such an extent and for such a period as he may determine, if he is satisfied that special circumstances demand such action.”.

**27. The following section is hereby substituted for section 25 of the Banks Act, 1965:**

“Valuation of securities. 25. For the purpose of sections *seventeen [and eighteen]* securities shall be valued at their market value, as certified by the *[secretary of the board of] Public [Debt] Investment Commissioners.*”.

**28. The following section is hereby substituted for section 27A of the Banks Act, 1965:** 40

“Banking institution’s subsidiary, branch office and other interests. 27A. A banking institution shall not establish or acquire a subsidiary company or open a branch office outside the Republic or acquire an interest in an undertaking referred to in section 13 (2) (b) unless the prior written authority of the Registrar has been obtained.”.

## WYSIGINGSWET OP FINANSIELE INSTEELLINGS, 1985

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5 bank of die Reserwebank nog nie 'n kliënt gedebiteer het nie, en ook die bedrag van 'n skatkisorder wat die bank uitbetaal het of waarmee hy 'n kliënt gekrediteer het maar waarvoor hy nog nie terugbetaling van die Sekretaris van die Tesourie ontvang het nie.'".

23. Artikel 18 van die Bankwet, 1965, word hierby herroep.

Herroeping van artikel 18 van Wet 23 van 1965, soos vervang deur artikel 15 van Wet 91 van 1972 en gewysig deur artikel 17 van Wet 94 van 1977, artikel 30 van Wet 103 van 1979, artikel 17 van Wet 82 van 1982 en artikel 26 van Wet 86 van 1984.

24. Artikel 19 van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

10 "Tydperk vir instandhouing van voorgeskrewe minima.

15 19. 'n Bankinstelling moet enige deur of kragtens artikel veertien, vyftien, sestien of sewentien [of agtien] voorgeskrewe minimum bedrag in stand hou te alle tye gedurende die tydperk vanaf die datum van sertifisering ingevolge paragraaf (a) of (c) van subartikel (1) van artikel dertien van die staat of opgawe aan die hand waarvan daardie bedrag bepaal word, tot die dag voor die datum waarop die eersvolgende sodanige staat of opgawe aldus gesertifiseer word.'".

Vervanging van artikel 19 van Wet 23 van 1965.

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25. Artikel 20 van die Bankwet, 1965, word hierby gewysig—  
 20 (a) deur in die tweede voorbehoudsbepaling by subartikel (1) die woord "handelsbank" deur die woord "bank" te vervang; en  
 (b) deur subartikel (2) te skrap.

Wysiging van artikel 20 van Wet 23 van 1965.

26. Artikel 24 van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

25 "Likwiede bates mag nie verpand of belas word nie.

30 24. Geen deel van die bates wat die likwiede bates [of die voorgeskrewe beleggings] uitmaak wat 'n bankinstelling ingevolge hierdie Wet moet besit en in stand hou, mag verpand of andersins beswaar word nie: Met dien verstande dat, as die Minister daarvan oortuig is dat besondere omstandighede sodanige optrede nodig maak, hy enige bankinstelling van die bepaling van hierdie artikel kan vrystel, en wel op die voorwaarde en in die mate en vir die tydperk wat hy bepaal.".

Vervanging van artikel 24 van Wet 23 van 1965.

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27. Artikel 25 van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

40 "Waardering van effekte.

40 25. Vir die doeleindes van artikels sewentien [en agtien] word effekte teen hul markwaarde gewaardeer, soos deur die Sekretaris van die raad van Staatskuldkommissarisse Openbare Beleggingskommissarisse gesertifiseer.'".

Vervanging van artikel 25 van Wet 23 van 1965.

28. Artikel 27A van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

45 "Bankinstelling se filiaal, takkantoor en ander belang.

45 27A. 'n Bankinstelling mag nie 'n filiaalmaatskap-py stig of verkry of 'n takkantoor buite die Republiek open of 'n belang in 'n onderneming in artikel 13 (2) (b) bedoel, verkry nie tensy die skriftelike goedkeuring van die Registrateur vooraf verkry is.'".

Vervanging van artikel 27A van Wet 23 van 1965, soos ingevoeg deur artikel 48 van Wet 101 van 1976.

**Act No. 106, 1985****FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985**

Substitution of section 27C of Act 23 of 1965, as inserted by section 48 of Act 101 of 1976 and substituted by section 19 of Act 94 of 1977.

Insertion of section 27E in Act 23 of 1965.

Substitution of section 28D of Act 23 of 1965, as inserted by section 50 of Act 101 of 1976 and amended by section 28 of Act 86 of 1984.

**29.** The following section is hereby substituted for section 27C of the Banks Act, 1965:

"Limitation on bank controlling company which controls a discount house.

**27C. [A banking institution or a registered bank controlling company shall not without the written approval of the registrar, directly or indirectly control more than one banking institution in any class of banking institution mentioned in section 1 (1), or, in the case of a controlling banking institution, a banking institution of the same class as it: Provided that] A registered bank controlling company which controls a discount house shall not control any other banking institution.".**

**30.** The following section is hereby inserted in the Banks Act, 1965, after section 27D:

"Prohibition of certain business by bank controlling company outside Republic.

**27E. A bank controlling company or its subsidiary which is not registered as a banking institution under this Act, shall not carry on outside the Republic the business of a banking institution (as defined in section 1 (2)).".**

**31.** The following section is hereby substituted for section 28D of the Banks Act, 1965:

"Limitation of shareholding in a bank and bank controlling company.

**28D. (1)** Subject to the provisions of subsections (2) and (4) of this section and of sections 28B and 28E, a [banking institution (other than a discount house)] bank or a bank controlling company shall not register shares in it in the name of a person other than a registered [banking institution] bank or a registered bank controlling company or a company approved by the registrar in terms of section 12A (4), except in so far as the total nominal value of the 30 shares which are to be registered together with those which are already registered in the name of—

- (i) a financial company approved by the registrar in respect of such [banking institution] bank or bank controlling company for the purposes of 35 this section, and its associates, does not exceed thirty per cent; and
- (ii) any other person and his associates does not exceed ten per cent, of the total nominal value of all the issued shares in 40 the [banking institution] bank or bank controlling company.

(2) The Minister may, in special cases where he is satisfied that it is desirable in the public interest, authorize a [banking institution (other than a discount house)] bank or bank controlling company in writing to exceed the percentages mentioned in sub-section (1) in respect of domestic shareholders, on the conditions and to the extent determined by the Minister.

(3) A discount house shall not register shares in it in the name of a person (other than a registered bank controlling company) and his associates of which the total nominal value exceeds ten per cent of the total nominal value of all the issued shares in the discount 55 house.

(4) Shares which are transferred to the executor, administrator, curator, trustee or guardian in respect of the estate of a deceased shareholder of the banking institution or bank controlling company or of a 60 shareholder whose estate has been sequestrated or of a shareholder who is otherwise incapable of contracting or the liquidator of a corporate body in the process of liquidation, which is a shareholder of the banking institution or bank controlling company, 65 shall not be deemed to be registered in the name of

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## WYSIGINGSWET OP FINANSIELE INSTELLINGS, 1985

Wet No. 106, 1985

29. Artikel 27C van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

5 "Beperking op bankbeheermaatskappy wat 'n diskontohuis beheer.  
**27C. [n Bankinstelling of 'n geregistreerde bankbeheermaatskappy mag nie sonder die skriftelike goedkeuring van die registerieur, meer as een bankinstelling in enige klas bankinstelling vermeld in artikel 1 (1), of, in die geval van 'n beherende bankinstelling, 'n bankinstelling van dieselfde klas as hy, regstreeks of onregstreeks beheer nie: Met dien verstande dat] 'n Geregistreerde bankbeheermaatskappy wat 'n diskontohuis beheer, mag geen ander bankinstelling **[mag]** beheer nie."**

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30. Die volgende artikel word hierby in die Bankwet, 1965, na artikel 27D ingevoeg:

15 "Verbod op sekere besigheid buite Republiek deur bankbeheermaatskappy.

**27E. 'n Bankbeheermaatskappy of sy filiaal wat nie ingevolge hierdie Wet as 'n bankinstelling geregistreer is nie, mag nie buite die Republiek die bedryf van 'n bankinstelling (soos in artikel 1 (2) omskryf) uitoefen nie."**

20 31. Artikel 28D van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

25 "Beperking op aandelebesit in 'n bank en bankbeheermaatskappy.

**28D. (1) Behoudens die bepalings van subartikels (2) en (4) van hierdie artikel en van artikels 28B en 28E, mag 'n **[bankinstelling (uitgesonderd 'n diskontohuis)] bank** of 'n bankbeheermaatskappy nie aandele in hom regstreer nie op naam van 'n ander persoon as 'n geregistreerde **[bankinstelling] bank** of 'n geregistreerde bankbeheermaatskappy of 'n maatskappy wat ingevolge artikel 12A (4) deur die registerieur goedgekeur is, behalwe vir sover die totale nominale waarde van die aandele wat geregistreer gaan word tesame met dié wat reeds geregistreer is op die naam van—**

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(i) 'n finansiële maatskappy wat deur die registerieur ten opsigte van daardie **[bankinstelling] bank** of bankbeheermaatskappy vir die doeleindes van hierdie artikel goedgekeur is, en sy geassosieerde, nie dertig persent; en  
(ii) enige ander persoon en sy geassosieerde, nie tien persent,  
van die totale nominale waarde van al die uitgereikte aandele in die **[bankinstelling] bank** of bankbeheermaatskappy oorskry nie.

(2) Die Minister kan in besondere gevalle waar hy oortuig is dat dit in die openbare belang wenslik is, 'n **[bankinstelling (uitgesonderd 'n diskontohuis)] bank** of bankbeheermaatskappy skriftelik magtig om op die voorwaardes en in die mate wat die Minister bepaal, die persentasies in subartikel (1) vermeld, te oorskry ten opsigte van binnelandse aandeelhouers.

(3) 'n Diskontohuis mag nie aandele in hom regstreer nie op naam van 'n persoon (uitgesonderd 'n geregistreerde bankbeheermaatskappy) en sy geassosieerde waarvan die totale nominale waarde tien persent van die totale nominale waarde van al die uitgereikte aandele in die diskontohuis oorskry nie.

(4) Aandele wat oorgedra is aan die eksekuteur, administrateur, kurator of voog ten opsigte van die boedel van 'n oorlede aandeelhouer van die bankinstelling of bankbeheermaatskappy of van 'n aandeelhouer wie se boedel gesekwestreer is of van 'n aandeelhouer wat andersins handelingsonbevoeg is, of die likwidateur van 'n regspersoon in die proses van likwidasie, wat 'n aandeelhouer van die bankinstelling of bankbeheermaatskappy is, word nie geag geregistreer te wees op naam van die aandeelhouer

Vervanging van artikel 27C van Wet 23 van 1965, soos ingevoeg deur artikel 48 van Wet 101 van 1976 en vervang deur artikel 19 van Wet 94 van 1977.

Invoeging van artikel 27E in Wet 23 van 1965.

Vervanging van artikel 28D van Wet 23 van 1965, soos ingevoeg deur artikel 50 van Wet 101 van 1976 en gewysig deur artikel 28 van Wet 86 van 1984.

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the shareholder *nomine officii* but shall be deemed to be registered in the name of the various beneficiaries: Provided that [in the case where] the voting power that such a shareholder *nomine officii* [owing to the voting power attached to shares registered in his name, is able to control the banking institution or bank controlling company, the voting power which he] can exercise in respect of all the shares under his control shall, notwithstanding anything to the contrary contained in any other law, be limited to ten per cent of the votes attached to all the issued shares of the banking institution or bank controlling company.

(5) Where at the commencement of the Financial Institutions Amendment Act, 1976, the total nominal value of shares in a [banking institution (other than a discount house)] bank or bank controlling company, registered in the name of a financial company and its associates or any other person and his associates, exceeds the relative percentage mentioned in subsection (1), the shares may, subject to the provisions of section 28E, remain so registered but, save with the approval of the Registrar, granted on such conditions as he deems necessary where he is satisfied—

- (i) that the interests of the [banking institution] bank or bank controlling company will otherwise be detrimentally affected; and
  - (ii) that compliance with the limits referred to in subsection (1) will not be unduly delayed,
- no further shares in the [banking institution] bank or bank controlling company shall be registered in the name of that shareholder or his associates as long as the relative percentage is exceeded.

(6) If at the commencement of the Financial Institutions Amendment Act, 1976, the total nominal value of shares in a discount house which is registered in the name of a person and his associates, exceeds the ratio referred to in subsection (3), no further shares shall be registered in the name of such person or that of his associates, and the discount house shall within six months from the date of the said commencement submit a scheme to the registrar whereby the shareholdings which exceed the limit mentioned in subsection (3) will be reduced within a period acceptable to the registrar to the extent that the required ratio will be complied with.

(6A) If as a result of the amalgamation of shareholders or the take-over of one shareholder by another after 1 August 1976, the total nominal value of shares in a discount house which are registered in the name of a person and his associates at the commencement of section 28 of the Financial Institutions Amendment Act, 1984, or thereafter exceeds the ratio referred to in subsection (3), no further shares shall be registered in the name of such person or the names of his associates, and the discount house shall within six months after the date of that commencement or, where any such exceeding takes place after that commencement, within six months from the date of the amalgamation or take-over in question, submit a scheme to the registrar whereby the shareholdings which exceed the limit mentioned in subsection (3) will be reduced, within a period acceptable to the registrar, to the extent that the required ratio will be complied with.

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*nomine officii* nie maar word geag afsonderlik op naam van die onderskeie begunstigdes geregistreer te wees: Met dien verstande dat **[in die geval waar]** die **stemkrag wat so 'n aandeelhouer nomine officii [van-]**  
**weë die stemkrag verbonde aan die aandele op sy**  
**naam geregistreer, in staat is om die bankinstelling of**  
**bankbeheermaatskappy te beheer, die stemkrag wat**  
**hy]** ten opsigte van alle aandele onder sy beheer kan  
 uitoefen, ondanks enige andersluidende bepalings  
 van 'n ander wet beperk is tot tien persent van die  
 stemme verbonde aan al die uitgereikte aandele van  
 die bankinstelling of bankbeheermaatskappy.

(5) Waar by die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, die totale nominale waarde van aandele in 'n **[bankinstelling (uitgesonderd 'n diskontohuis)]** **bank** of bankbeheermaatskappy wat op naam van 'n finansiële maatskappy en sy geassosieerde of 'n ander persoon en sy geassosieerde geregistreer is, die betrokke persentasie vermeld in subartikel (1) oorskry, mag, behoudens die bepalings van artikel 28E, die aandele aldus geregistreer bly, maar behalwe met die goedkeuring van die Registrateur, verleen op die voorwaardes wat hy nodig ag, waar hy oortuig is—

- (i) dat die belang van die **[bankinstelling]** **bank** of bankbeheermaatskappy andersins nadelig gevraak sal word; en
- (ii) dat voldoening aan die perke in subartikel (1) bedoel, nie oormatig vertraag sal word nie, mag geen ander aandele in die **[bankinstelling]** **bank** of bankbeheermaatskappy op naam van daardie aandeelhouer of sy geassosieerde geregistreer word nie, solank die betrokke persentasie oorskry word.

(6) Indien by die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1976, die totale nominale waarde van aandele in 'n diskontohuis wat op naam van 'n persoon en sy geassosieerde geregistreer is, die verhouding bedoel in subartikel (3) oorskry, mag geen verdere aandele op naam van sodanige persoon of dié van sy geassosieerde geregistreer word nie, en moet die diskontohuis binne ses maande vanaf die datum van genoemde inwerkingtreding 'n skema aan die registrateur voorlê waarvolgens die aandeelhoudings wat die perk genoem in subartikel (3) oorskry, binne 'n vir die registrateur aanneemlike tydperk verminder sal word in die mate dat aan die vereiste verhouding voldoen sal word.

(6A) Indien as gevolg van die samesmelting van aandeelhouders of die oornname van een aandeelhouer deur 'n ander na 1 Augustus 1976, die totale nominale waarde van aandele in 'n diskontohuis wat op naam van 'n persoon en sy geassosieerde geregistreer is, by die inwerkingtreding van artikel 28 van die Wysigingswet op Finansiële Instellings, 1984, of daarna die verhouding bedoel in subartikel (3) oorskry, mag geen verdere aandele op naam van sodanige persoon of dié van sy geassosieerde geregistreer word nie, en moet die diskontohuis binne ses maande vanaf die datum van genoemde inwerkingtreding of, waar so 'n oorskryding na daardie inwerkingtreding plaasvind, binne ses maande vanaf die datum van die betrokke samesmelting of oornname, 'n skema aan die registrateur voorlê waarvolgens die aandeelhoudings wat die perk genoem in subartikel (3) oorskry, binne 'n vir die registrateur aanneemlike tydperk verminder sal word in die mate dat aan die vereiste verhouding voldoen sal word.

**Act No. 106, 1985****FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985**

Insertion of  
section 28G in  
Act 23 of 1965.

(7) The provisions of subsections (5), (6) and (6A) shall not be construed as meaning that as long as the relative ratio is exceeded, shares may not be transferred within a group of associates.”.

**32.** The following section is hereby inserted after section 28F of the Banks Act, 1965:

**“Restriction on certain approval.** **28G.** After the coming into operation of the Financial Institutions Amendment Act, 1985, the registrar shall not grant approval under paragraph (i) of subsection (1) of section 28D to more than one financial company per banking institution or bank controlling company.”.

Substitution of  
section 29 of  
Act 23 of 1965,  
as substituted by  
section 51 of  
Act 101 of 1976.

**33.** The following section is hereby substituted for section 29 of the Banks Act, 1965:

**“Limitation on certain activities of banks.** **29.** (1) A **commercial** bank which has a branch system and which accepts money on deposit which is withdrawable by cheque and which has been admitted to the clearing house of banks, shall not carry on any business in the Republic through a person who is not its full-time servant: Provided that such a bank may raise deposits through an agent and pay commission to such agent in respect thereof.

(2) A banking institution **[other than a commercial bank]** shall not without the written approval of the Registrar accept deposits of money withdrawable by cheque unless it offered that facility prior to 1 January **[1975] 1985**.”.

Amendment of  
section 30A of  
Act 23 of 1965,  
as inserted by  
section 11 of  
Act 82 of 1965  
and substituted  
by section 20 of  
Act 94 of 1977.

**34.** Section 30A of the Banks Act, 1965, is hereby amended by the deletion of the word “general” in paragraph (a) of subsection (1).

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Amendment of  
section 48 of  
Act 23 of 1965,  
as amended by  
section 25 of  
Act 36 of 1981  
and section 31 of  
Act 86 of 1984.

**35.** Section 48 of the Banks Act, 1965, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) returns, statements and documents furnished in terms of section 13 (1) (a), (b), **[(c)]** (d) or (e) or section 34, in respect of the last ten preceding calendar years.”.

Amendment of  
section 49 of  
Act 23 of 1965,  
as amended by  
section 6 of  
Act 23 of 1970  
and section 32 of  
Act 86 of 1984.

**36.** Section 49 of the Banks Act, 1965, is hereby amended by the deletion in subsection (5) of the word “eighteen”.

Amendment of  
section 1 of  
Act 24 of 1965,  
as amended by  
section 1 of  
Act 64 of 1968,  
section 5 of  
Act 67 of 1973,  
section 54 of  
Act 101 of 1976,  
section 22 of  
Act 80 of 1978,  
section 50 of  
Act 99 of 1980,  
section 18 of  
Act 82 of 1982,  
section 20 of  
Act 46 of 1984  
and section 34 of  
Act 86 of 1984.

**37.** Section 1 of the Building Societies Act, 1965, is hereby amended—

- (a) by the substitution for the word “thirty”, wherever it appears in the definition of “medium-term liability”, of the word “thirty-one”;
- (b) by the deletion of the definition of “prescribed investments”; and
- (c) by the substitution for the word “thirty”, wherever it appears in the definition of “short-term liability”, of the word “thirty-one”.

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## WYSIGINGSWET OP FINANSIELE INSTELLINGS, 1985

Wet No. 106, 1985

(7) Die bepalings van subartikels (5), (6) en (6A) word nie so vertolk dat solank daar 'n oorskryding van die betrokke verhouding is, aandele nie binne 'n groep geassosieerde oorgedra mag word nie.”.

5 32. Die volgende artikel word hierby na artikel 28F van die Bankwet, 1965, ingevoeg:

“Beperking op sekere goedkeuring. 10 **28G.** Na die inwerkingtreding van die Wysigingswet op Finansiële Instellings, 1985, mag die registrator nie aan meer as een finansiële maatskappy per bankinstelling of bankbeheermaatskappy goedkeuring kragtens paragraaf (i) van subartikel (1) van artikel 28D verleen nie.”.

Invoeging van artikel 28G in Wet 23 van 1965.

15 33. Artikel 29 van die Bankwet, 1965, word hierby deur die volgende artikel vervang:

“Beperking op sekere bedrywigheid van banke. 20 **29.** (1) 'n **[Handelsbank]** Bank wat 'n takstelsel het en wat geld op deposito neem wat deur middel van tjeks opvraagbaar is en wat tot die verrekeningshuis van banke toegelaat is, mag nie in die Republiek besigheid dryf deur iemand wat nie heeltyds in sy diens staan nie: Met dien verstande dat so 'n bank deposito's deur 'n agent kan werf en aan so 'n agent kommissie ten opsigte daarvan kan betaal.

Vervanging van artikel 29 van Wet 23 van 1965, soos vervang deur artikel 51 van Wet 101 van 1976.

25 (2) 'n **[Ander]** Bankinstelling **[as 'n handelsbank]** mag nie sonder die skriftelike goedkeuring van die Registrateur geld op deposito aanneem wat deur middel van tjeks opvraagbaar is nie, tensy hy voor 1 Januarie **[1975]** **1985** bedoelde fasiliteit aangebied het.”.

30 34. Artikel 30A van die Bankwet, 1965, word hierby gewysig deur die woord “algemene” in paragraaf (a) van subartikel (1) te skrap.

Wysiging van artikel 30A van Wet 23 van 1965, soos ingevoeg deur artikel 11 van Wet 82 van 1965 en vervang deur artikel 20 van Wet 94 van 1977.

35 35. Artikel 48 van die Bankwet, 1965, word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

Wysiging van artikel 48 van Wet 23 van 1965, soos gewysig deur artikel 25 van Wet 36 van 1981 en artikel 31 van Wet 86 van 1984.

“(b) opgawes, state en dokumente ingevolge artikel 13 (1) (a), (b), **[(c)]** (d) of (e) of artikel 34 verstrek, met betrekking tot die jongste tien voorafgaande kalenderjare.”.

40 36. Artikel 49 van die Bankwet, 1965, word hierby gewysig deur in subartikel (5) die woord “*agtien*” te skrap.

Wysiging van artikel 49 van Wet 23 van 1965, soos gewysig deur artikel 6 van Wet 23 van 1970 en artikel 32 van Wet 86 van 1984.

37. Artikel 1 van die Bouverenigingswet, 1965, word hierby gewysig—

Wysiging van artikel 1 van Wet 24 van 1965, soos gewysig deur artikel 1 van Wet 64 van 1968, artikel 5 van Wet 67 van 1973, artikel 54 van Wet 101 van 1976, artikel 22 van Wet 80 van 1978, artikel 50 van Wet 99 van 1980, artikel 18 van Wet 82 van 1982, artikel 20 van Wet 46 van 1984 en artikel 34 van Wet 86 van 1984.

45 (a) deur in die omskrywing van “korttermynverpligting” die woord “dertig” waar dit ook al voorkom, deur die woord “een-en-dertig” te vervang;

(b) deur in die omskrywing van “middeltermynverpligting” die woord “dertig” waar dit ook al voorkom, deur die woord “een-en-dertig” te vervang; en

50 (c) deur die omskrywing van “voorgeskrewe beleggings” te skrap.

**Act No. 106, 1985****FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985**

Amendment of section 29 of Act 24 of 1965, as amended by section 8 of Act 64 of 1968, section 2 of Act 91 of 1969, section 26 of Act 80 of 1978 and section 20 of Act 46 of 1984.

Amendment of section 31 of Act 24 of 1965, as amended by section 9 of Act 64 of 1968 and section 27 of Act 80 of 1978.

Repeal of section 32 of Act 24 of 1965, as amended by section 19 of Act 91 of 1972, section 22 of Act 94 of 1977, section 19 of Act 82 of 1982 and section 36 of Act 86 of 1984.

Amendment of section 38 of Act 24 of 1965, as amended by section 14 of Act 58 of 1966, section 11 of Act 64 of 1968, section 8 of Act 67 of 1973 and section 28 of Act 80 of 1978.

Short title and commencement.

**38.** Section 29 of the Building Societies Act, 1965, is hereby amended—

- (a) by the deletion of the words “or prescribed investments”; and
  - (b) by the insertion after paragraph (b) of the following paragraph:
- “(c) in deposits, loans, bills, bonds and other securities which immediately prior to the commencement of section 37 of the Financial Institutions Amendment Act, 1985, constituted ‘prescribed investments’.”**

**39.** Section 31 of the Building Societies Act, 1965, is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) [thirty] twenty per cent of its liabilities in respect of transmission deposits;”;**
- (b) by the deletion of subsection (1A); and
  - (c) by the substitution in subsection (4) for the words “secretary of the board of public debt commissioners” of 20 the words “Public Investment Commissioners”.

**40.** Section 32 of the Building Societies Act, 1965, is hereby repealed.

**41.** Section 38 of the Building Societies Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) A reducible mortgage of immovable property shall provide for the repayment of the capital amount advanced—
- (a) within a period of not more than thirty years where such capital amount does not exceed twenty thousand rand and the mortgaged property is property on which a dwelling house has been or is to be erected; or
  - (aA) within a period of not more than twenty-five years where such capital amount exceeds twenty thousand rand but not thirty thousand rand and the mortgaged property is property on which a dwelling house has been or is to be erected; or
  - (b) within a period of not more than [twenty] thirty years [in all other cases]: Provided that if any portion of the capital amount advanced has been repaid to and re-advanced by the society, the period within which the balance of such capital amount and the amount so re-advanced shall be repaid, shall be reckoned from the date of the re-advance: Provided further that where a society increases the rate of interest on an advance, this subsection shall not be so construed that it requires the society to increase the regular payments of such advance.”.

**42.** (1) This Act shall be called the Financial Institutions Amendment Act, 1985.

(2) Section 8 shall be deemed to have come into operation on 18 July 1984.

(3) Section 39 (a) shall be deemed to have come into operation on 1 March 1984.

## WYSIGINGSWET OP FINANSIELLE INSTELLINGS, 1985

Wet No. 106, 1985

**38.** Artikel 29 van die Bouverenigingswet, 1965, word hierby gewysig—

- (a) deur die woorde “of voorgeskrewe beleggings” te skrap; en
- 5 (b) deur die volgende paragraaf na paragraaf (b) in te voeg:
  - 10 (c) in deposito's, lenings, wissels, skuldbriewe en ander effekte wat onmiddellik voor die inwerkingtreding van artikel 37 van die Wysigingswet op Finansiële Instellings, 1985, ‘voorgeskrewe beleggings’ uitgemaak het;

Wysiging van artikel 29 van Wet 24 van 1965, soos gewysig deur artikel 8 van Wet 64 van 1968, artikel 2 van Wet 91 van 1969, artikel 26 van Wet 80 van 1978 en artikel 20 van Wet 46 van 1984.

**39.** Artikel 31 van die Bouverenigingswet, 1965, word hierby gewysig—

- 15 (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
  - “(a) **[dertig] twintig** persent van sy verpligtings ten opsigte van transmissiedeposito's;”;
- (b) deur subartikel (1A) te skrap; en
- 20 (c) deur in subartikel (4) die woorde “sekretaris van die raad van Staatskuldkommissarisse” deur die woorde “Openbare Belegingskommissarisse” te vervang.

Wysiging van artikel 31 van Wet 24 van 1965, soos gewysig deur artikel 9 van Wet 64 van 1968 en artikel 27 van Wet 80 van 1978.

**40.** Artikel 32 van die Bouverenigingswet, 1965, word hierby herroep.

Herroeping van artikel 32 van Wet 24 van 1965, soos gewysig deur artikel 19 van Wet 91 van 1972, artikel 22 van Wet 94 van 1977, artikel 19 van Wet 82 van 1982 en artikel 36 van Wet 86 van 1984.

**41.** Artikel 38 van die Bouverenigingswet, 1965, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) 'n Verminderbare verband op vaste eiendom moet voorsiening maak vir die terugbetaling van die kapitaalbedrag wat voorgeskiet is.—
- 30 (a) binne 'n tydperk van hoogstens dertig jaar waar bedoelde kapitaalbedrag nie twintigduisend rand oorskry nie en die verhipotekeerde eiendom eiendom is waarop 'n woonhuis opgerig is of gaan word; of
  - (aa) binne 'n tydperk van hoogstens vyf-en-twintig jaar waar bedoelde kapitaalbedrag twintigduisend rand oorskry maar nie dertigduisend rand nie en die verhipotekeerde eiendom eiendom is waarop 'n woonhuis opgerig is of gaan word; of
  - 35 (b) binne 'n tydperk van hoogstens **[twintig]** dertig jaar **[in alle ander gevalle]**: Met dien verstande dat indien enige gedeelte van die kapitaalbedrag wat voorgeskiet is aan die vereniging terugbetaal en weer deur hom voorgeskiet is, die tydperk waarbinne die saldo van bedoelde kapitaalbedrag en die bedrag weer aldus voorgeskiet, terugbetaal moet word, bereken moet word vanaf die datum waarop dit weer voorgeskiet word: Met dien verstande voorts dat waar 'n vereniging die rentekoers op 'n voorskot verhoog, hierdie subartikel nie so uitgelê word dat die vereniging daardeur vereis word om die gereelde terugbetalings van bedoelde voorskot te verhoog nie.”.

Wysiging van artikel 38 van Wet 24 van 1965, soos gewysig deur artikel 14 van Wet 58 van 1966, artikel 11 van Wet 64 van 1968, artikel 8 van Wet 67 van 1973 en artikel 28 van Wet 80 van 1978.

**42.** (1) Hierdie Wet heet die Wysigingswet op Finansiële Instellings, 1985.

Kort titel en inwerktrding.

- (2) Artikel 8 word geag op 18 Julie 1984 in werking te getree het.
- 55 (3) Artikel 39 (a) word geag op 1 Maart 1984 in werking te getree het.

**Act No. 106, 1985****FINANCIAL INSTITUTIONS AMENDMENT ACT, 1985**

- (4) (a) Sections 18 (c), 19 and 35 shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.  
(b) Different dates may be so fixed in respect of the different sections mentioned in paragraph (a). 5

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- (4) (a) Artikels 18 (c), 19 en 35 tree in werking op 'n datum  
deur die Staatspresident by proklamasie in die *Staats-koerant* bepaal.  
5 (b) Verskillende datums kan aldus bepaal word ten opsigte  
van die verskillende artikels in paragraaf (a) vermeld.

